

**211 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

**CRM No.M-5006 of 2014 (O&M)
Date of Decision: February 26, 2015**

Aman @ Devender and another Petitioners

vs.

State of Haryana Respondent

CORAM: HON'BLE MR. JUSTICE KULDIP SINGH

Present: Mr. J.S. Bedi, Senior Advocate with
Mr. Sunil Sihag, Advocate for the petitioners.
Ms. Kirti Singh, Deputy Advocate General, Haryana.
Mr. R.K. Bagga, Advocate for the complainant.

- 1. Whether Reporters of Local Newspapers may be allowed to see the judgment?*
- 2. To be referred to the Reporters or not?*
- 3. Whether the judgment should be reported in the Digest?*

Kuldip Singh J.(Oral)

Petitioners, namely Aman @ Devender and Krishan have filed the present petition first time for grant of regular bail in case FIR No.354, dated 05.09.2012, under Sections 363, 366-A, 302, 365, 504 read with Section 34 of the Indian Penal Code, 1860, registered at Police Station Butana, District Karnal.

It comes out that on the basis of the said FIR, two separate challans were presented. One was regarding the rape of minor and other is regarding the murder of Kamlesh Devi.

The present case pertains to the murder of Kamlesh Devi, mother of the prosecutrix. The allegations against the present

petitioners are that they had committed rape with the prosecutrix and threatened the prosecutrix that if she opens her mouth, her family will be killed.

It is stated that on 02.09.2012 around 8.30 a.m., Kamlesh Devi (now deceased) went to Nilokheri to get the medicines and articles of daily use. After buying the medicines and household articles, she reached at Nilokheri bus stand but did not reach at home. Later on, 05.09.2012, her dead body was recovered and it was found that she had been murdered.

The petitioners along with one Kusum were suspected to have committed murder of Kamlesh Devi.

I have heard learned counsel for the parties and have also carefully gone through the case file.

It is not denying that in rape case, arisen out of the same FIR, the present petitioners have been acquitted and the appeal against their acquittal is pending.

The petitioners were arrested on 13.10.2012 and are in custody since then.

In this case, complainant Dharmpal and prosecutrix have been examined. In their examination, they have stated that one Dharmender had last saw Kamlesh Devi in the company of the petitioners.

Learned counsel for the petitioners contends that the complainant had earlier filed a petition for transferring the investigation in the said FIR to the Central Bureau of Investigation. The complainant had also filed a complaint before the Human Rights Commission, wherein the name of Dharmender did not figure. His name also did not figure during investigation. He was also not named as witness during the trial of the petitioners in the rape charges or present case. Now, his name has been mentioned as the person, who last saw the deceased with the accused. It is stated that said Dharmender is none but the real nephew of complainant Dharampal.

Learned counsel for the petitioners has referred the statement of the Investigating Officer, who had stated that he did not find any incriminating evidence against the present petitioners. During investigation, polygraph test of the petitioners was also conducted. The weapon used in the crime has not been recovered.

Learned counsel for the complainant on the other hand has argued that in this case, one ASI was demoted and departmental inquiry against S.H.O. is pending. It is also stated that the police did not deliberately collect the evidence.

In this case, the complainant and other witnesses have been examined. Keeping in view the entirety of the facts and the period of detention, also keeping in view the fact that the trial is at fag end and without commenting upon the merits of the case, the

present petition is allowed. The petitioners are ordered to be released on bail on their furnishing personal bonds in the sum of ₹1,00,000/- each with one surety of the like amount to the satisfaction of trial court, subject to the following conditions:

- i) The petitioners will continue to appear on each and every date of hearing.
- ii) They will not tamper with the evidence.
- iii) They will not leave the country without prior permission of the court.

February 26, 2015
sarita

(KULDIP SINGH)
JUDGE