

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CRM No. M-15218 of 2016 (O&M)
Date of Decision: 11.05.2016

Pankaj

--Petitioner

Versus

State of Haryana

--Respondent

CORAM:- HON'BLE MR.JUSTICE TEJINDER SINGH DHINDSA.

Present:- Mr. Tejinder Pal Singh, Advocate for the petitioner.

Mr. A.K. Chaudhary, Addl. A.G., Haryana.

TEJINDER SINGH DHINDSA.J

Petitioner seeks benefit of regular bail pending trial in case FIR No.180 dated 07.09.2014, under Sections 279/304-A IPC (Sections 302/34 IPC invoked during the investigation), registered at Police Station Israna, District Panipat.

Counsel for the parties have been heard.

FIR initially came to be registered under Section 279/304-A IPC on the basis of statement of Rakesh who stated that on 07.09.2014, he had seen body of an unknown person lying by the side of the road and having injuries on the face and forehead. Complainant-Rakesh had stated that driver of some unknown vehicle may have hit such unknown person and has fled away from the spot and which in turn has caused the death of such person.

Post mortem examination of the dead body was conducted on 08.09.2014 and the cause of death was opined by the doctor in the following terms:

“In our opinion, the cause of death in this case is strangulation by ligature coupled with craniofacial injuries as described. All the described injuries are ante-mortem in nature & sufficient to cause death in ordinary course of nature.

However, viscera has been sent for chemical analysis.”

Based on such opinion, offences under Sections 279/304-A IPC were dropped and Sections 302/34 IPC were invoked on 16.09.2014.

It so transpires that after a period of almost two months, one Telu Ram came present in the Police Station and told that he has seen the photographs of the dead body on television on 14.11.2014. Based on photographs in the police file, Telu Ram got his statement recorded under Section 161 Cr.P.C. having identified the dead person to be his son, namely, Jony.

Statement of Telu Ram under Section 161 Cr.P.C. has been placed on record at Annexure P-1 in which he has stated that on 06.09.2014 his son, Jony had been called by one Sandeep for going to Panipat and he has full suspicion that his son was murdered by Sandeep.

In the trial that has ensued Telu Ram i.e. father of the deceased has been examined before the Trial Court as PW-2. His deposition has been placed on record at Annexure P-2.

In so far as the present petitioner is concerned, he is sought to be implicated on the basis of an extra judicial confession that he has made before one Mukesh and Ramphul. Mukesh is stated to be a relative of the deceased and Ramphul in turn is the uncle of Mukesh.

It would be pertinent to take note that in the statement of Telu Ram i.e. father of the deceased under Section 161 Cr.P.C as also in his deposition before the Trial Court as PW-2 he has not even named the present petitioner.

Petitioner has been in custody since 18.11.2014.

It is a case of circumstantial evidence.

It is not the case made out on behalf of the State that in case petitioner is granted the benefit of bail he would be in a position to hamper the course of trial.

Without making any observations on merits, present petition is allowed. Petitioner be enlarged on bail subject to satisfaction of C.J.M./Duty Magistrate, Panipat.

Petition disposed of.

(TEJINDER SINGH DHINDSA)
JUDGE

11.05.2016
lucky