

***IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH***

***CRM No.M-31322 of 2015 (O&M)
Date of Decision: 06.04.2016***

Sandeep

... Petitioner

Versus

State of Haryana

... Respondent

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

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

Mr. Vivek Saini, DAG, Haryana.

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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 the present petitioner, namely, Sandeep for going to Panipat and he has full suspicion that his son was murdered by Sandeep.

It is under such factual backdrop that the petitioner was implicated in the present case and was arrested on 20.11.2014.

In the trial that has ensued, Telu Ram has been examined before the trial Court as PW-2. In his deposition, he has clearly stated that his son had gone missing for the last two months. In cross-examination, Telu Ram has clearly stated that no report was lodged with the police over a period of almost two months with regard to his son having gone missing. Deposition of Telu Ram is also to the effect that he did not even attempt to contact the accused persons including the present petitioner to search out his son.

It would be pertinent to take note that in the statement under Section 161 Cr.P.C. as also in his deposition before the trial Court, there is no motive attributed to the present petitioner while harbouring a suspicion

against the petitioner of having murdered his son.

It is a case of circumstantial evidence.

Petitioner has faced incarceration since 20.11.2014. Material witness Telu Ram has already been examined as PW-2.

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

In the totality of circumstances and without making any observations on merits, petitioner is held entitled to the benefit of bail.

Accordingly, petition is allowed. Petitioner be enlarged on bail subject to the satisfaction of the Chief Judicial Magistrate/Duty Magistrate, Panipat.

Disposed of.

06.04.2016

shubham

**(TEJINDER SINGH DHINDSA)
JUDGE**