

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-11603 of 2016
Date of Decision: 12.01.2017

Harbir

.....Petitioner

VERSUS

State of Haryana

....Respondent

CORAM:- HON'BLE MR. JUSTICE SURINDER GUPTA

Present: Mr. B.S. Tewatia, Advocate
for the petitioner.

Ms. Harpreet Kaur, AAG, Haryana.

SURINDER GUPTA, J.(Oral)

The present petition has been filed under Section 438 Code of Criminal Procedure for grant of anticipatory bail to petitioner in case FIR No. 340 dated 09.06.2015 registered for offences punishable under Section 302 of Indian Penal Code (for short 'IPC'), at Police Station Hodal, District Palwal.

2. Police of Police Station Hodal recovered a dead body of one Satish from the fields of village Sevali. Father of the deceased made statement to the police that on 06.11.2013 at about 08.30 p.m., Satish had gone on his motorcycle to irrigate fields. Dead body of Satish was found lying at a corner of the road near fields by his son Vijender. He also narrated to the police that his nephew Suresh informed him about a telephonic call made by the petitioner enquiring about whereabouts of Satish, who informed him that Satish was present at the shop of Sher Singh. Again the petitioner called Suresh on telephone and disclosed that the deceased had met him at about 09.00 a.m. and had altercation with someone.

When Suresh asked about location of the Satish, he disconnected the phone. On postmortem, cause of death of the deceased was recorded as shock and haemorrhage as a result of injuries sustained by him.

3. Learned counsel for the petitioner has argued that the police had already carried out two investigations wherein the petitioner has been found innocent. Now the police again want to arrest him after 18 months of recording of the FIR. His custodial interrogation is not required as he has already joined the investigation and is still ready to join it. He has relied on enquiry report of SHO, Police Station Hodal (Annexure P-2) whereby he has found allegations levelled against the petitioner as false. Incharge, CIA Staff, Palwal vide report (Annexure P-3) had also recommended filing of the complaint in this case.

4. Learned State counsel has argued that the police on scanning of telephonic call details of the petitioner has found his location near the place of occurrence. Though, FIR was registered after 18 months of the occurrence but the DDR No. 19 was recorded immediately after the occurrence on 07.11.2013, wherein the petitioner has been specifically named. It is a case based on circumstantial evidence and without custodial interrogation of the petitioner, it will not be possible for the police to crack the case and complete the chain of link evidence. Grant of benefit of bail will seriously hamper the investigation and the police may not succeed in fairly investigating the case.

5. It is a case of blind murder. I agree with learned State counsel that police has to scan all the circumstances during course of investigation appearing for and against the petitioner. Grant of anticipatory bail to the petitioner will certainly hamper the fair investigation. The police is not after

the petitioner and has not arrested him so far even after more than 3 years of the incident. Mobile location of the petitioner at the time of occurrence is one of the circumstance which goes against him.

6. Keeping in view all these facts and circumstances and the gravity of offence, I do not find it to be a fit case to exercise discretionary power of this Court to grant benefit of pre-arrest bail to the petitioner.

7. Instant petition has no merit and the same is dismissed.

January 12, 2017
jk

(SURINDER GUPTA)
JUDGE

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No