

Criminal Misc. M- No. 12348 of 2017 (O&M)

Date of decision : April 24, 2017

Sajid

.....Petitioner

Versus

State of Haryana

....Respondent

CORAM:- HON'BLE MRS. JUSTICE LISA GILL

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

Mr. Anmol Malik, AAG, Haryana.

LISA GILL, J.

Prayer is for bail pending trial to the petitioner in FIR No. 316 dated 28.11.2015 registered under Sections 302, 376, 201, 392, 34 IPC at Police Station Ferozepur Jhirka, District Mewat.

It is submitted that there is no evidence against the present petitioner. None has been named in the FIR. The petitioner is sought to be inculpated on the basis of the statement of Umar Mohammed, husband of the deceased, recorded subsequently on 13.12.2015 and a disclosure statement of the co-accused Shokin son of Akbar Khan recorded on 16.12.2015. It is submitted that Umar Mohammed has stated that on inquiry conducted by him at his own level, he came to know that his wife was murdered by the present petitioner alongwith other persons after violating her person. There is, however, no indication as to from where and in what manner he got this information especially keeping in view the fact that the

petitioner was not known to the husband of the deceased at an earlier point of time. Disclosure statement of the co-accused Shokin son of Akbar Khan, it is submitted, has no evidentiary value qua the petitioner. Call detail records reflect that the co-accused Shokin son of Akbar Khan was in touch with the deceased. The present petitioner is not concerned with the commission of the offence in question. Furthermore, the co-accused Shokin son of Fateh Mohammed, who is similarly placed as the petitioner, has been afforded the concession of bail pending trial on 03.04.2017 in CRM-M No. 6526 of 2017 (Annexure P-2). Learned counsel for the petitioner submits that in this case resting entirely on circumstantial evidence, the complicity of the petitioner in the commission of any offence is not made out. The petitioner is in custody since 16.12.2015. It is, thus, prayed that this petition be allowed.

Learned counsel for the State, on instructions, from ASI Mahender affirms and verifies that the petitioner has been nominated in this case on the basis of the statement of Umar Mohammed, husband of the deceased, recorded on 13.12.2015 as well as disclosure statement of the co-accused Shokin son of Akbar Khan (in custody). It is further not denied that the role of the present petitioner is similar to that of Shokin son of Fateh Mohammed, whose application for bail pending trial has been allowed on 03.04.2017. The petitioner is not involved in any other case. Ten (10) out of total twenty nine (29) prosecution witnesses have since been examined. The complainant has since been examined in this case.

I have heard learned counsel for the parties.

It is apparent that the trial in this case is not likely to conclude

in the near future. The petitioner is in custody since 16.12.2015. He is not involved in any other case. There are no allegations on behalf of the State that petitioner is likely to abscond or that he is likely to dissuade the witnesses from deposing true facts in the Court, if released on bail. No useful purpose shall be served by keeping the petitioner incarcerated any longer. Keeping in view the facts and circumstances noted above but without expressing any opinion on the merits of case, it is considered just and expedient to allow this petition.

Consequently, the petitioner be released on bail pending trial subject to his furnishing requisite bail bonds and surety bonds to the satisfaction of the learned trial Court.

It is reiterated that none of the observations made herein above are a reflection on the merits of the case and shall have no bearing on the trial.

April 24, 2017
rts

(Lisa Gill)
Judge

Whether speaking/reasoned : Yes

Whether reportable : Yes/No