

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

CRM-M-22687 of 2017
Date of Decision: 06.07.2017

Kishan Lal

....Petitioner

VERSUS

State of Punjab

....Respondent

CORAM:- HON'BLE MR. JUSTICE SURINDER GUPTA

Present: Mr. Dhiraj Chawla, Advocate
for the petitioner.

Ms. Amanpreet Kaur, Advocate
for Mr. M.S. Sachdev, Advocate
for the complainant.

SURINDER GUPTA, J.(Oral)

The present petition has been filed under Section 439 Code of Criminal Procedure for grant of regular bail to the petitioner in case FIR No. 32 dated 10.05.2016 registered for the offence punishable under Section 302 read with Section 34 of Indian Penal Code (for short, "IPC") at Police Station Cantt. Jalandhar, District Jalandhar.

Heard.

Notice of motion.

On asking of the court, Ms. Rajni Gupta, Sr. DAG, Punjab, who is present in the Court accepts notice and submits that intimation by Registry informing of fixation of the petition has already been received and record of the case is available with her.

As per case of prosecution, Gautam son of complainant was murdered by Kartik son of the petitioner. After the incident, he came home and disclosed about the offence committed by him to his parents, at which

they went to the place of occurrence i.e. Dussehra Ground, where petitioner cut the ear of Gautam and threw the same near the toilet. This was done by him in order to show that death of Gautam was due to an accident.

Learned counsel for the petitioner submits that main accused in this case is Kartik. The role attributed to petitioner is based on his statement recorded by the police and there is no evidence to support the same. As per medical report, cause of death was immediate after the head injury. The petitioner was arrested in this case on 17.05.2016. Thereafter, the challan has been presented but till date not a single witness has been examined.

Learned State counsel and learned counsel for complainant submit that specific role has been attributed to the petitioner, who has been accused of giving inhuman treatment to dead body of Gautam son of the complainant. In his statement before the police he has admitted that he cut the ear of Gautam. Knife used in the occurrence was also recovered from his custody.

Allegation that the petitioner has removed ear of the deceased with knife is not based on statement of any eye-witness or any other evidence except statement of the petitioner recorded by the police during investigation. How much reliance can be placed on this statement, is a fact to be seen by the trial Court. There is nothing to show that the petitioner was in any manner involved in murder of Gautam.

In view of above but without expressing any opinion on merits of the case and keeping in view the fact that conclusion of trial will take considerably long time, the present petition is allowed. Petitioner-Kishan Lal is ordered to be released on regular bail on furnishing bail bond and surety bond to the satisfaction of concerned trial Court/Chief Judicial

Magistrate/Duty Magistrate, subject to following terms:-

- (a) The petitioner shall comply with the conditions mentioned in Section 437(3) Cr.P.C.
- (b) In the event of his absence on any date of hearing, the benefit of bail allowed to the petitioner shall stand withdrawn. The trial Court shall be competent to cancel his bail bond and surety bond and proceed to procure his presence in accordance with law. In that eventuality the petitioner shall have to apply for bail afresh.
- (c) He shall not leave the country without the previous permission of the Court.

July 06, 2017
jk

(SURINDER GUPTA)
JUDGE

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No