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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-29200 of 2017(O&M)
Date of Decision: December 06, 2017

Mintu

...Petitioner

Versus

State of Haryana and others

...Respondents

CORAM: HON'BLE MR. JUSTICE HARINDER SINGH SIDHU

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Present: - Mr.Hemant Bassi, Advocate
with the petitioner.

Mr.Manish Bansal, DAG, Haryana.

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HARINDER SINGH SIDHU, J.

By filing the present petition, the petitioner seeks bail in case FIR No.117 dated 16.07.2016 registered under Sections 201/34/364/365/302 IPC at Police Station Loharu, Haryana.

The allegations in the FIR lodged by Babu Lal Saini, the father of the deceased, are that his son Amit alias Mufla was at home on 28.6.2016. At about 8 O'clock, his friend Devender alias Pucchi came home and took away Amit on the pretext of some work, stating that they would come back after a while. But Amit and his friend did not return that night. The next day, they searched for Amit and his friend everywhere, but they were not found anywhere. After three days i.e. on 30.6.2016, Devender alias Pucchi came to the house of the complainant and enquired whether Amit had come home. When the wife of the complainant told him that Amit had not come back and asked Devender about the whereabouts of Amit, he became terrified and fled away. In the complaint it was stated

that thereafter even Devender @ Pucchi went missing and his phone number was also switched off. The missing report was lodged on 14.7.2016 requesting that Amit be traced and enquiry be made from the parents of his friend.

Mr. Hemant Bassi, Learned counsel for the petitioner argued that the petitioner has not been named in the FIR. The petitioner is only being sought to be implicated on the basis of an alleged disclosure statement dated 14.8.2016 of one Rohit @ Rommy. In the said statement, Rohit disclosed that he was a friend of Mintu Jakhar (petitioner), Tinku @ Aakash and Devender @ Pucchi. Tinku @ Aakash told him that Amit (deceased) had picked up a quarrel with him about two months ago because of which, Tinku nursed a grudge against Amit. Tinku requested Rohit to ask Devender to call Amit out of his house on some pretext as Tinku wanted to kill him. Thereafter, Rohit sent his friend Devender to take Amit to the temple at village Fartia Tal on his motorcycle. Rohit along with Tinku and Mintu Jakhar (petitioner) were present there as per plan. They all consumed intoxicating tablets. Rohit and Tinku caught hold of Amit and Tinku forced him to have intoxicating tablets. Thereafter, Amit became unconscious. Mintu (petitioner) kicked on the private parts of Amit. Tinku Nehra gave a *Kulhari* blow on the head of Amit from its back and another blow on his neck. Devender caused injuries on the chest of Amit with a *pokher (sua)*. Amit succumbed to the injuries. Thereafter all four put the dead body in a bag and buried it in the fields of Jaipal. The blood stained *Kulhari* was also placed near the dead body.

He argued that in fact, this statement cannot be treated as a disclosure statement admissible under Section 27 of the Evidence Act, 1872

because even before the alleged disclosure statement, in the statement of Subhash son of Bahadur Singh recorded under Section 175 CrPC, it had been stated that Sandeep, brother of the deceased had informed him on telephone on 14.8.2016 at about 6.30 p.m that the dead body of Amit had been recovered from the fields. He further argued that though the deceased had gone missing on 28.6.2016, the FIR was registered only on 16.7.2016. There is accordingly huge unexplained delay in recording of the FIR. He stated that, thus, there is no evidence to connect the petitioner with the alleged crime. He further stated that the petitioner is in custody since 17.8.2016.

Disputing the contentions of learned counsel for the petitioner, Mr.Manish Bansal, Ld. DAG Haryana appearing for the State argued that body of Amit was recovered consequent upon the disclosure statement made by Rohit and not before that as contended by the learned counsel for the petitioner. He states that after the disclosure statement was made by Rohit, an application was moved to the SDM for appointment of a Duty Magistrate to recover the body. And it was only, thereafter, that the body was recovered. He further contended contrary to the assertions of the Ld. Counsel for the petitioner that the petitioner had no active role, the petitioner actively participated in the crime by forcibly administering the intoxicating tablets to the deceased and after he had become unconscious, kicked his private parts. After Amit died all the accused buried his dead body in the fields. Regarding the delay in the FIR, he states that the complainant and the family had been searching for their son and only on being unsuccessful they lodged a missing report on 14.7.2017 and requested the police to trace the deceased. He further states that of the four

accused, only two have been arrested, whereas, two of the accused Devender and Aakash are absconding. He further stated that out of 32 witnesses, 7 prosecution witnesses have already been examined.

I have heard learned counsel for the parties.

Considering the aforesaid submissions and in view of the gravity of the allegations, I do not feel it a fit case for grant of bail to the petitioner, at this stage.

Petition is dismissed.

December 06, 2017

(HARINDER SINGH SIDHU)
JUDGE

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Whether Speaking / Reasoned	Yes
Whether Reportable	Yes / No