

Sr. No.211

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CRM No. M-32880 of 2016 (O&M)
Date of Decision:13.01.2017

Surjit Singh @ Siti

... Petitioner

Versus

State of Haryana

... Respondent

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

Present:- Mr. Chandan Singh Rana, Advocate,
for the petitioner.

Mr. C.S.Bakhshi, Additional A.G., Haryana.

TEJINDER SINGH DHINDSA, J.(ORAL)

This order shall dispose of the instant petition filed under Section 439 Cr.P.C. seeking benefit of regular bail to the petitioner pending trial in case FIR No.325 dated 31.05.2015, under Section 346 IPC (Sections 302/201/120-B/34 of IPC added later on), registered at Police Station Ratia.

Counsel for the parties have been heard.

FIR came to be registered on the statement of Mukhtiar Singh. Deceased is Ronumal i.e. son of the complainant. As per initial version of the complainant, Ronumal (deceased) had come to the village on 29.05.2015 to attend the marriage of a relative and had gone missing since 30.05.2015. In spite of a search having been carried out, he could not be located and hence the complaint on the suspicion that some unknown persons had detained him. Apparently, the complainant on the following

day i.e. 01.06.2015, has got a statement recorded under Section 161 Cr.P.C. and wherein he states that in the evening of 31.05.2015 after having got registered FIR No.325 under Section 346 of IPC he had reached the house of Kaushalya and whereupon shoes of the deceased were found on the roof of the house. One Gurjit Kaur was questioned and who disclosed that she had given one pair of white chappal to him for wearing. Thereafter upon reaching Bhakhra Canal hawai chappal of white colour was noticed as also some traces of blood. Against such backdrop complainant Mukhtiar Singh voiced a suspicion that his son Ronumal had been killed by Gurjit Kaur, Amrik Singh, Kaushalya Devi and Sukhwinder Singh by hatching a conspiracy with each other.

During the course of arguments, it has gone uncontroverted that the investigating agency found all the aforenoticed persons innocent and having no concern with the alleged crime.

It would be apposite to take note that even in the statement of the complainant under Section 161 Cr.P.C. no suspicion had been voiced qua the present petitioner.

Learned State counsel who is on instructions from ASI Mahavir Prasad would apprise the Court that investigation in the case having been completed, the final report under Section 173 Cr.P.C. has been submitted on 29.08.2015 in which Sukhwinder Singh son of Harnam Singh as also the present petitioner have been nominated as an accused. On a query having been put, learned State counsel would submit that the evidence collected against the present petitioner is a confessional statement made by co-accused Sukhwinder Singh and before Suresh Kumar. Even the statement of Suresh Kumar recorded under Section 161 Cr.P.C. has been placed on

record at Annexure P-8 and the same has been perused. Even as per contents of such statement, it is Sukhwinder Singh son of Harnam Singh who has allegedly confessed to killing Ronumanl and has also implicated the present petitioner in the offence.

State counsel would further oppose the prayer for bail on the ground that a gandasi's blade has been recovered from the petitioner and the body of the deceased was bearing incised wounds.

The complicity of the present petitioner in the present case is based on circumstantial evidence. Even if the statement of Suresh at Annexure P-8 is to be given some credibility, the confession of Sukhwinder Singh @ Sukha co-accused divulges that he along with the present petitioner had killed Ronumal by inflicting danda blows. There is no indication as regards any sharp edged weapons having been used.

In the totality of the circumstances, the offence under Section 302 IPC if at all made out against the present petitioner would be a moot question. The admissibility of such confessional statement in evidence would be yet another issue.

Petitioner has been in custody since 15.07.2015.

After presentation of challan on 29.08.2015, the trial Court has not made much progress inasmuch as out of 23 witnesses only 02 have been examined till date. The trial would take time to conclude.

In the considered view of this Court, the petitioner is entitled to the benefit of bail. Petition is allowed. Petitioner be enlarged on bail subject to satisfaction of the trial Court.

It is made clear that observations made in this order are confined to considering the prayer of the petitioner for grant of bail and

would have no bearing on the merits of the case.

Disposed of.

13.01.2017

vandana

(TEJINDER SINGH DHINDSA)
JUDGE

Whether speaking/reasoned

Yes

Whether Reportable

Yes