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**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

CRM-M-3690 of 2017

Date of decision: April 20, 2017

Ravinder Singh

.....Petitioner

Versus

State of Haryana

.....Respondent

CORAM: HON'BLE MR. JUSTICE A.B. CHAUDHARI

Present: Mr. Vikram Chaudhari, Senior Advocate with
Mr. Harsimrat Sethi, Advocate for the petitioner.

Ms. Tanushree Gupta, DAG Haryana.

Mr. A.P.S. Deol, Senior Advocate with
Mr. H.S. Deol, Advocate for the complainant.

A.B. CHAUDHARI, J (Oral)

Heard learned counsel for the rival parties.

Petitioner seeks regular bail in FIR No.440 dated 28.08.2014, under Sections 365 of the Indian Penal Code, 1860 (for short 'IPC') (Challan filed under Sections 365/307 IPC, Sections 365/307 IPC deleted and Sections 364, 302, 201 IPC added later on), registered at Police Station Samalkha, District Panipat.

It is not in dispute that the petitioner was arrested on 07.07.2016 and is in jail since then as under trial. Briefly stated the prosecution case is that on 08.04.2014, Reeta, a Police Constable on duty went missing and the missing report was accordingly, lodged by her brother-Ramesh, on 16.06.2014. FIR was investigated and on 02.08.2014, concerned police station officer prepared cancellation report and closed the matter in so far as the Police Station, Sector-17,

Chandigarh is concerned. Thereafter, Ramesh again filed FIR in respect of the same missing of his daughter-Reeta with the Police Station Samalkha, on 28.08.2014 and therein also, the investigation was undertaken. On 13.02.2014, polygraph test of the petitioner was undertaken and the result of which was negative and therefore, on 17.05.2015, he was let off by the said police. Thereafter, police prepared an untraced report, on 26.06.2015 in the said FIR. Thereafter, on 28.06.2016, the investigating officer, Police Station Samalkha arrested brother of Reeta by name, Rohit. On 07.07.2016, again the petitioner was arrested on the ground that he made an extrajudicial confession before Ex-Sarpanch Pawan Kumar and that in the disclosure statement it was stated by the petitioner that motorcycle was used in the alleged crime and that was recovered on 10.07.2016. Thereafter, brother of Reeta, namely Rohit was discharged on 22.07.2016 and on 30.08.2016, a final report was filed by the Police Station officer in the Court and offences under Sections 302, 364, 201 IPC were added by supplementary challan by deleting the earlier registered offences under Sections 365, 307 IPC.

Learned counsel for the petitioner submitted that there is no iota of evidence of whatsoever nature, even remotely, against the petitioner and the prosecution is merely relying on the call data in respect of conversation between Reeta and the petitioner. He, then submitted that if the entire prosecution case is seen, there is no evidence against the petitioner justifying his detention as an under trial. At any rate, according to him, the evidence collected by the

prosecution regarding call data etc. cannot be tampered with as it is in the custody of the Court. Apart from that, it is stated that since there is no evidence against the petitioner, there is prima-facie case and therefore, the petitioner is entitled to grant of bail.

Per contra, learned State counsel as well as learned counsel for the complainant vehemently opposed the petition for bail and submitted that call data collected by the investigating officer clearly show evidence in the form of conversation between the petitioner and Reeta and therefore, it is in the special knowledge of the petitioner about the missing girl. According to the learned counsel for the complainant-Reeta was a young woman of 23 years while, the petitioner is a married person having children, but they being in the same police station, he induced Reeta and ultimately, was responsible for her missing. The petitioner appears to have committed her murder and with further fact that recovery of motor-cycle was made by the petitioner on his disclosure statement coupled with extrajudicial confession to the Ex-Sarpanch Pawan Kumar, he prayed for continuous detention of the petitioner till the completion of trial.

I have considered the rival submissions made by learned counsel for the parties carefully. I have seen the record so also the evidence collected by the prosecution. The prosecution has evidence in the form of extrajudicial confession allegedly made by the petitioner. The incident is stated to be of June 2014 and in particular 09.06.2014 when allegedly Reeta went missing. Despite investigation made by Chandigarh Police so also by the Police Station Samalkha, no evidence

against the petitioner was found and that is why, on 20.08.2014, Chandigarh Police had prepared cancellation report and closed the case while Samalkha Police Station had prepared untraced report, on 26.06.2015. It is thereafter, in 2016 after arrest of brother of Reeta, who was ultimately discharged on 22.07.2016, the petitioner was arrested and the extrajudicial confession is relied upon by the prosecution in addition to the call details record. Looking to the entire matter in the correct perspective, in my opinion, there is no justification for continuing the detention of the petitioner any further. The reason is that the evidence cannot be tampered with as the call details record is in the custody of the Court and further petitioner was earlier joined in the investigation twice and no evidence was found against him. There is, prima-facie, case made out for grant of bail to the petitioner.

In that view of the matter, this petition is allowed. Petitioner is ordered to be released on bail subject to the satisfaction of the Chief Judicial Magistrate/Duty Magistrate concerned. Petitioner shall not tamper with the prosecution evidence, threaten or exercise any influence on the prosecution witnesses.

(A.B. CHAUDHARI)
JUDGE

April 20, 2017

mahavir

Whether speaking/ reasoned: Yes/No

Whether Reportable: Yes/No