

CRM No.M-9384 of 2017
Date of Decision: 24.03.2017

Sukhwinder Singh @ Sukhi

... Petitioner

Versus

State of Haryana

... Respondent

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

Present: Mr.I.S.Dhaliwal, Advocate
for the petitioner.

Mr. C.S.Bakshi, Addl.A.G., Haryana.

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TEJINDER SINGH DHINDSA, J.

Petitioner seeks regular bail pending trial in case FIR No.325 dated 31.05.2015, under Section 346, 302, 201, 120-B, 34 IPC, registered at Police Station Ratia, District Fatehabad.

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 (since deceased) had gone to the village on 29.05.2015 to attend the marriage of his 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, got a statement recorded under Section 161 Cr.P.C. and therein 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 to wear. 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 one Sukhwinder Singh by hatching a conspiracy with each other.

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

Learned State counsel who is on instructions from ASI Harjinder Singh 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 Surjit Singh and the present petitioner have been nominated as accused. On a query having been put, learned State counsel would submit that the evidence collected against the present petitioner is his own confessional statement that he has allegedly made before one Suresh Kumar. Even the statement of Suresh Kumar recorded under Section 161 Cr.P.C. has been placed on record and as per which the present petitioner has confessed to killing Ronumal by inflicting danda blows.

The post-mortem report of the deceased reflects only incised injuries.

The complicity of the present petitioner in the present case is based on circumstantial evidence. Even if the statement of Suresh is to be given some credibility as regards the present petitioner having inflicted danda blows, there is no indication in the confessional statement with regard to the any sharp edged weapon having been used.

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

Concededly, co-accused Surjit Singh @ Siti has been granted regular bail by this Court.

After presentation of challan, the trial Court has not made much progress inasmuch as out of 23 witnesses only 02 have been examined till date. The trial, as such, would take time to conclude. The petitioner has faced incarceration since 10.06.2015.

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 only as regards considering the prayer of petitioner for grant of bail and would have no bearing on the trial proceedings.

Disposed of.

24.03.2017
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(TEJINDER SINGH DHINDSA)
JUDGE

Whether speaking/reasoned? Yes

Whether reportable? Yes