

204

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-12041 of 2018 (O&M)

Date of decision: March 28, 2018

Surender @ Sindhu

.....Petitioner

Versus

State of Haryana

.....Respondent

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

Present: Mr. Amit Kumar Goyal, Advocate for the petitioner.

Mr. Randhir Singh, Addl. AG Haryana.

A.B. CHAUDHARI, J (Oral)

This is the second petition for grant of regular bail to the petitioner, in FIR No.184 dated 10.07.2015, under Sections 346, 364, 148, 149, 321, 302, 120-B, 201, 202 of Indian Penal Code, 1860, registered at Police Station Broda, District Sonapat.

Heard learned counsel for the rival parties for quite sometime.

As a matter of fact, the petitioner had earlier filed a petition for grant of regular bail, but that was dismissed as withdrawn by this Court and that is how, the present second bail petition has come before this Court in terms of the decision of the Supreme Court in the cases of **Shahzad Hasan Khan versus Ishtiaq Hasan Khan and another**, 1987 SCC (Criminal) 415 and **Jagmohan Bahl and another versus State (NCT of Delhi) and another**, 2015(1) RCR (Criminal) 291.

Learned counsel for the petitioner, in support of the present second petition, submits that the trial is not being seriously held in that the witnesses of the prosecution are not appearing. The complainant was examined.

I have seen the examination-in-chief of the complainant and admittedly, he is not an eye witness. There is no recovery from the petitioner.

However, the trial Court rejected the application for regular bail on the ground

that the involvement of the petitioner was found during investigation. However, it is not stated as to what is the nature of involvement when the complainant was not an eye witness. That being so, this Court made enquiry from the investigating officer as to the evidence regarding involvement of the present petitioner. The answer is that *corpus delicti* was not found as the body was thrown in the canal. It is true even in the absence of *corpus delicti*, there can be conviction. But then, in the present case, the trial Court itself has observed that the present petitioner as well as deceased both were abducted and were taken away by the accused person. In that view of the matter, I have taken into consideration all these circumstances and the fact that the trial is not being proceeded with the required speed, the petitioner would be entitled to grant bail since he has made out *prima facie* case.

In that view of the matter, I make the following order:-

ORDER

- (i) CRM-M-12041 of 2018 is allowed;
- (ii) The petitioner be released on bail to the satisfaction of the concerned Chief Judicial Magistrate/Duty Magistrate;
- (iii) The petitioner shall deposit his passport, if he possesses, with the trial Court;
- (iv) The petitioner shall not tamper, influence and threaten the prosecution witnesses and complainant as well.

(A.B. CHAUDHARI)
JUDGE

March 28, 2018
mahavir

Whether speaking/ reasoned: Yes/No

Whether Reportable: Yes/No