

CRM-M-1917-2018(O&M)

Date of decision:23.01.2018

Kanhai Kumar Mishra

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present: Mr. Manish Soni, Advocate, for the petitioner.

Mr. Naveen Sheoran, DAG, Haryana.

ARVIND SINGH SANGWAN, J. (ORAL)

Prayer in this petition is for grant of regular bail to the petitioner in case FIR No.598, dated 23.12.2016, under Sections 302, 201, 34 IPC and Section 328, 120-B IPC added later on, registered at Police Station Kherki Daula, District Gurugram.

Learned counsel for the petitioner submits that the petitioner was not named in the FIR and the prosecution case is based on circumstantial evidence. It is further submitted that the petitioner has been involved in the case under the aid of Section 120-B IPC after co-accused Dharmender made a disclosure statement that he has obtained some medicine from the petitioner and after mixing the same in a drink, he has given it to deceased.

Counsel for the petitioner further submitted that as per the medical evidence, which has come on record, the poison found in the body of the deceased is Aluminium Phosphide which can be consumed in the form of tablet and because of its characteristic, it cannot be consumed by mixing it alcohol. Counsel for the petitioner has referred to the statement of

PW-2-Dr. Deepak Mathur wherein he deposed that Cellphos tablet can never be given by deception due to its pungent smell. He also submitted that the petitioner was arrested on 26.12.2016 and out of six prosecution witnesses, none has deposed against the petitioner about any conspiracy between the petitioner and co-accused Dharmender.

Learned State counsel, on instructions from ASI Sajjan Singh, has not disputed the fact about the FSL report but has disputed the fact about the statement of the other prosecution witnesses with regard to the allegation of conspiracy between the petitioner and co-accused Dharamender. He further submits that 15 more prosecution witnesses are yet to be examined.

Without commenting on the merits of the case, considering the fact that the petitioner was not named in the FIR and was involved on the disclosure statement of the co-accused Dharamender; he is in judicial lock up since 26.12.2016 and 15 more prosecution witnesses are yet to be examined; the petitioner is ordered to be released on regular bail subject to his furnishing bail /surety bonds to the satisfaction of the trial Court.

(ARVIND SINGH SANGWAN)
JUDGE

23.01.2018

Hemlata

Whether speaking/reasoned
Whether reportable

Yes / No
Yes / No