

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

CRM-M-2866-2018 (O&M)

Date of decision: 20.02.2018

Roshan

... Petitioner

Vs.

State of Haryana

... Respondent

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

Present: Mr. D.D. Sharma, Advocate for the petitioner.

Mr. Deepak Grewal, DAG, Haryana.

...

TEJINDER SINGH DHINDSA, J. (ORAL).

CRM-6032-2018:

Application is allowed as prayed for. The accompanying statements/depositions of PW14 and PW15 are taken on record.

Application is disposed of.

Main case:

Petitioner seeks benefit of regular bail pending trial in case FIR No.17, dated 22.03.2017, under Sections 302/201/34 IPC, registered at Police Station GRP, Jind, District Jind.

Counsel for the parties have been heard at length.

Process of law was set in motion pursuant to a dead body having been found on the railway track on 21.03.2017. Inquest proceedings were initiated and an opinion was recorded that death has been caused by certain unidentified persons with beatings caused by *lathis* and *dandas* and thereafter, the body has been thrown on the railway tracks. The dead body was identified to be of Lalu son of Lahna, caste Balmiki resident of Pega,

Police Post Alewa, District Jind.

Present petitioner along with one Ram Kala were roped in on the basis of secret information. Petitioner was arrested on 03.05.2017 and prosecution is relying upon a confessional statement recorded of the petitioner and as per which deceased was living in a hutment in the fields of Shamsher. As per confessional statement, the petitioner along with deceased and co-accused Ram Kala were in the habit of consuming liquor together. An altercation is stated to have taken place between the three on 18.03.2017 on account of which a grudge was nursed. Thereafter, on 21.03.2017, the deceased again consumed liquor with the present petitioner and co-accused Ram Kala and upon becoming inebriated, was inflicted severe beatings with *danda* and thereafter, he was thrown on the railway tracks.

On the basis of disclosure statement, a *danda*/wooden log is stated to have been recovered by the Investigating authorities.

Co-accused, Ram Kala is stated to have since expired.

Learned State counsel representing the petitioner has adverted to the deposition of PW5 Rajinder, PW6 Risala, PW7 Rohtash, PW8 Manish and PW9 Satbir @ Biru and such statements prima facie do not indicate complicity of the present petitioner in the alleged offence.

Counsel has also referred to statements of PW14 Balwant Singh, SI/Incharge Police Post GRP Narwana, District Jind and PW15 Rajinder Singh, SI/Incharge Police Post GRP Kaithal and which would indicate that at the stage of recovery of the weapon i.e. wooden log, no independent witness has been associated and furthermore, PW15 in his cross examination had admitted that the wooden log was not even sent to FSL.

Petitioner has faced incarceration since 03.05.2017.

It is case of circumstantial evidence.

The evidentially value of the confessional statements recorded of the petitioner would be an issue to be dealt with by the trial Court.

In the totality of circumstances and without making any observations on merit, petitioner is held entitled to the benefit of bail.

Petitioner be enlarged on bail subject to satisfaction of the trial Court/Duty Magistrate concerned.

Disposed of.

20.02.2018

harjeet

**(TEJINDER SINGH DHINDSA)
JUDGE**

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| i) | Whether speaking/reasoned? | Yes/No |
| ii) | Whether reportable? | Yes/No |