

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

CRM-M-36682 of 2018.

Decided on:-August 30, 2018.

Hari Kishan.

.....Petitioner.

Versus

State of Haryana.

.....Respondent.

CORAM: HON'BLE MR. JUSTICE HARI PAL VERMA.

Present:- Mr. R.N. Lohan, Advocate
for the petitioner.

Mr. Manish Bansal, DAG, Haryana.

HARI PAL VERMA, J.

The petitioner has filed present petition under Section 439 Cr.P.C. seeking regular bail in FIR No.51 dated 23.03.2018 under Sections 302, 201 and 404 read with Section 34 IPC registered at Police Station Sadar Narwana, District Jind.

As per FIR, on 04.06.2017, when the police party headed by HC Rajender Singh was on patrolling duty, a telephonic message was received from MHC Police Station Sadar Narwana that a dead body of an unidentified person was lying in a vehicle bearing registration No.PB-13AA-9638 in front of Lucky Dhaba, Dumerkhan. The police party reached the spot and the owner of the vehicle was informed on his mobile phone as the contact number of his mobile was written on the vehicle.

Thereafter, Inderjit Singh (brother of the deceased) got recorded a statement before the police that his brother Balwinder Singh (deceased) had left the house in the morning after informing him that he was going as driver on the vehicle from Bhawanigarh to Gauhati and would return after 15-20 days. But on 04.06.2017, a telephonic call was received from Paramjeet Singh, owner of the vehicle that his brother Balwinder Singh on his way near Narwana suffered a heart attack in front of Lucky Dhaba. On receipt of this information, the family members reached Lucky Dhaba, where they found Balwinder Singh dead in the cabin of the truck. The family members verified the reason regarding the death of Balwinder Singh from the owner of the Dhaba and nearby persons, who informed the family members of the deceased that he (Balwinder Singh) died due to heart attack and nobody is responsible for his death. However, on receipt of FSL report and opinion of the doctor, FIR in question was registered on 23.03.2018.

Learned counsel for the petitioner has argued that the petitioner has not been named in the FIR and is not involved in the case. The complainant and his family members had stated that they do not want any action against anyone as the deceased had died because of the heart attack when he was going from Bhawanigarh to Gauhati.

He has further argued that the petitioner has been named in the FIR only on the basis of disclosure statement of co-accused Paramjit Kaur, who is wife of the deceased. Except the statement of co-accused Paramjit Kaur, which is not admissible in law, there is no other evidence against the petitioner. Moreover, the opinion of the doctor is not certain about asphyxia.

The dead body of Balwinder Singh was recovered from the cabin of the truck parked in front of Lucky Dhaba, but neither the neighbours nor employees of the Dhaba were associated in the investigation. Therefore, the story propounded by the police is highly improbable.

On the other hand, learned State counsel has argued that the petitioner along with co-accused Paramjit Kaur committed the murder of Balwinder Singh by strangulation and this fact has come to the notice only after receipt of the medical report.

I have heard learned counsel for the parties.

As per the disclosure statement made by co-accused Paramjit Kaur, she had differences with her husband Balwinder Singh as he was a drug-addict and also used to consume liquor. He never used to pay the expenses for the household even and most of the times, she used to stay at her parental home. Petitioner Hari Kishan was a frequent visitor to parental home of Paramjit Kaur and she had shared the fact of her harassment by Balwinder Singh with the petitioner. Thereafter, they planned to kill Balwinder Singh. On 03.06.2017, Balwinder Singh had informed Paramjit Kaur on her mobile phone that he was standing near Narwana town, Jind Road, Lucky Dhaba. Co-accused Paramjit Kaur and the petitioner reached Lucky Dhaba on a motorcycle and administered intoxicant pills to Balwinder Singh due to which he was intoxicated and both of them strangulated him with the help of a Parna (piece of cloth). Thereafter, they threw the mobile phone and the Parna in Khanauri-Bhakhra canal.

The plea that the petitioner is being named as an accused solely on the basis of disclosure statement of co-accused Paramjit Kaur can only be appreciated during the course of trial. Moreover, as per the opinion of the doctor, Civil Hospital, Narwana, there were no significant pathological changes which may exclude the possibility of myocardial infarction. As per findings and injuries mentioned in the *post mortem* report, the possibility of death due to asphyxia which can be by hanging or smothering etc. cannot be ruled out, which is *ante mortem* in nature.

Thus, taking into consideration the fact that the allegations levelled against the petitioner are serious in nature, this Court finds that no ground to release the petitioner on bail is made out at this stage.

Accordingly, the present petition, being devoid of any merit, is dismissed.

The observations made hereinabove shall not be construed as an expression of opinion on the merits of the case and the trial Court shall decide the case without being influenced with the same.

August 30, 2018
Yag Dutt

(HARI PAL VERMA)
JUDGE

Whether speaking/reasoned: Yes

Whether Reportable: No