

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

CRM-M-37011 of 2018
Date of Decision: 28.09.2018

Sachidanand Mishara

....Petitioner

VERSUS

State of Haryana

....Respondent

CORAM:- HON'BLE MR. JUSTICE SURINDER GUPTA

Present: Mr. Daljit Singh, Advocate
for the petitioner.

Mr. Amrik Narwal, DAG, Haryana.

SURINDER GUPTA, J.

The present petition has been filed under Section 439 Code of Criminal Procedure for grant of regular bail to the petitioner in case FIR No.49 dated 22.08.2016 registered for offences punishable under Sections 302/201 of Indian Penal Code (for short, "IPC") at Police Station Mansa Devi Complex, Panchkula.

2. Case of prosecution, in brief, is that on 22.08.2016, complainant-Ram Lakhan had gone to answer the call of nature in open area of MDC Panchkula having bushes. While he was sitting to defecate, he found that a three-wheeler of green and yellow colour came on the road going from Saketri Kishangarh and stopped about 20 to 25 steps ahead of him. The driver of three-wheeler picked up some heavy item wrapped in cloth and threw it in grass and left the spot. He could identify that driver but because of illiteracy he could not note number of the auto-rickshaw. When he came near that object he found that it was dead body of a lady, who was wearing a pink *sari*. He apprised his neighbourer Pandit Naresh Kumar of

the incident and the matter was reported to the police. The petitioner was arrested in this case on 31.08.2016.

3. Learned counsel for the petitioner while referring to statement of complainant-Ram Lakhan has argued that he has not identified the petitioner, as such, there is no evidence against him and the petitioner, who is in custody for the last about two years, may be released on bail. He has further argued that the prosecution has introduced one witness, namely, Santosh as PW-4, who has stated that two persons came to her and took her room on rent. In the morning she found the lady lying in her courtyard. She was picked up by the man, who accompanied her on the three-wheeler and taken away from there. Even statement of this witness is not sufficient to identify the petitioner and connect him with the murder of that lady wearing pink *sari*.

4. Admittedly, complainant has not identified the petitioner in Court. The case against petitioner is based on circumstantial evidence and the prosecution is relying upon the statement of Santosh, who has deposed before the Court that the petitioner came with a lady to take her room on rent. She asked for the identity proof at which petitioner told her that he used to ply auto in Chandigarh and will provide his identity proof and address by next date. She gave him room on first floor and both stayed in that room during night time. In the morning at about 06.00 a.m., she heard noise of somebody falling on the ground and found that the lady was lying in the courtyard and her two bags were also lying there. The petitioner was also present there. That lady was wearing pink *sari* and white bangles. She asked the petitioner to take her to the hospital at which he put her with the help of someone in his auto and took her away. Thereafter, he did not

return. She identified the dead body from her pink *sari* and bangles. The petitioner was also identified by her in the Court.

5. This argument of learned counsel for the petitioner that testimony of Santosh (PW-4) is not sufficient to connect the petitioner with commission of crime for which he has been charged in this case is not required to be commented upon while disposing of bail application. The case is based on circumstantial evidence and it is for the trial Court to see whether the testimony of Santosh (PW-4) is sufficient to prove the charge and find corroboration from other evidence on record. However, keeping in view the fact that testimony of Santosh has implicated the petitioner in this case and prosecution out of total 26 witnesses has already examined 15 witnesses, I find no reason to extend the benefit of regular bail to petitioner at this stage.

6. This petition has no merit and the same is dismissed.

September 28, 2018
jk

(SURINDER GUPTA)
JUDGE

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No