

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

206

CRM-M No.3847 of 2018

Date of Decision: February 5th, 2018

Partek

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASIH

Present: Mr. R.S. Cheema, Senior Advocate
with Mr. Rajiv Kumar Trikha, Advocate
for the petitioner.

Mr. Sharad Kumar Yadav, Deputy Advocate General, Haryana.

AUGUSTINE GEORGE MASIH, J. (ORAL)

Petitioner, who has been found to be a juvenile, but is being tried by the Children Court, Panipat, in FIR No.406 dated 06.04.2017 registered at Police Station Panipat City, for offences under Sections 365, 302, 201 read with Section 34 IPC and Section 25 Arms Act.

It is the contention of learned senior counsel for the petitioner that the petitioner in the light of Section 12 of the Juvenile Justice (Care and Protection of Children) Act is entitled to the concession of bail, however, on merits also keeping in view the role alleged and attributed and as per the challan which has been presented before the trial Court in another FIR registered at Karnal i.e. FIR No.306 dated 07.04.2017, no recovery has been effected from the petitioner, however, from co-accused Sunny, countrymade pistol and from co-accused Sangram, one knife and personal goods of deceased-Ram Kumar have been recovered. Counsel contends that even going by the disclosure statement which is the basis of the FIR and is the evidence which is being used against the petitioner, petitioner was not feeling well and was vomiting because of which the car in which they had taken lift from the deceased was stopped. It is at that moment that Sunny

resulted in his becoming unconscious. Ram Kumar was pushed back on the rear seat and Sunny started driving the car. It is stated that thereafter Ram Kumar again gained consciousness and the petitioner along with co-accused Sangram strangled Ram Kumar with a white *parna*. He contends that no *parna* has been recovered and there was no such version in the disclosure statement which has been recorded by the Karnal Police in FIR No.306 dated 07.04.2017. He on this basis contends that there is nothing which could connect the petitioner with the commission of the offence and he has not been arrested on the spot and no recovery except for the torch and that too in FIR No.306 dated 07.04.2017 registered at Police Station Sadar, Karnal, has been found to be against the petitioner. He, therefore, prays for the grant of regular bail.

Counsel for the State could not dispute the factual assertions as projected by the learned senior counsel for the petitioner, however, he submits that the report of the Chemical Examiner is to be received on 08.02.2018 which would be helpful in determining the cause of death of deceased-Ram Kumar. He, therefore, states that the petitioner be not granted the concession of regular bail and the case be adjourned beyond the said date.

Having considered the submissions made by the counsel for the parties and having gone through the relevant documents attached with the present case, keeping in view the disclosure statement of accused-Partek himself and the disclosure statement of the co-accused, no overt act has been attributed to him except for the strangulation of deceased-Ram Kumar and that too in the second disclosure statement, where again no *parna* which is alleged to have been used in such strangulation, has been recovered. That apart, learned counsel for the State has not been able to

point out any injury in the post-mortem report of the deceased which can be attributed to the torch which has been recovered from the petitioner, although in different FIR.

Keeping in view the fact that the petitioner was arrested on 07.04.2017 and is a juvenile with the trial not likely to conclude soon and he is no more required for the purpose of investigation, the present petition is allowed.

Petitioner-Partek is directed to be released on bail to the satisfaction of the Children Court, Panipat.

February 5th, 2018
Puneet

(AUGUSTINE GEORGE MASIH)
JUDGE

Whether speaking/reasoned: Yes/No

Whether Reportable: Yes/No