

Sr. No.215

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

**CRM-M-41243-2018
Date of decision:16.10.2018**

Rajwinder Singh @ Raja

.....Petitioner

versus

State of Punjab

.....Respondent

Coram: HON'BLE MR. JUSTICE RAJBIR SEHRAWAT

Present: Mr. Narinder Lucky, Advocate
for the petitioner.

Mr. Rajat Bansal, AAG, Punjab.

Mr. S.K.Garg Narwana, Sr. Advocate with
Mr. Ankur Bansal, Advocate
for the Complainant.

Rajbir Sehrawat, J(Oral)

The present petition has been filed by the petitioner under Section 439 Cr.P.C for grant of bail pending trial in case FIR No.65 dated 12.04.2016 registered under Sections 364-A, 302, 201, 150, 120-B of IPC at Police Station Kapurthala, District Kapurthala.

Learned counsel for the petitioner submits that the FIR in the case was without naming any person as an accused. Subsequently, after the dead body of the deceased was recovered, case was converted into an FIR under Section 302 IPC. The name of the petitioner has been wrongly involved in the case on the basis of an alleged extra-judicial confession. Still further it is contended that the mobile phone, from whom the alleged call for ransom is stated to have been made, was found snatched by somebody else and a separate FIR was lodged for snatching of that mobile

phone. The petitioner was not named in that FIR. The person who snatched the mobile phone was even identified by the complainant of that FIR regarding snatching of the mobile phone. It is further contended that the petitioner is in custody since 08.05.2016. Out of total 44 witnesses only 24 witnesses have been examined. Trial is likely to take much longer time. Therefore, a case for release the petitioner on bail is made.

On the other hand, learned State Counsel, being instructed by, SI Darshan Singh, submits that the evidence of the case is at the fag end. As a reply to the specific query by the Bench, State counsel has submitted that in all likelihood, the prosecution complete its evidence within next 04 months from the next date fixed before the Trial Court.

Shri S.K.Garg Narwana, learned Senior Counsel appearing on behalf of the Complainant has pointed out that there is direct evidence against the petitioner. There is extra judicial confession made by the petitioner, which has been duly proved before the Trial Court by examining the relevant witness. It is further contended that recovery of the items belonging to the deceased have been made from the car of the petitioner. Therefore, it is submitted that the petitioner does not deserve to be released on bail.

It goes without saying that individuals have a right to life and liberty. However, that right of the individual is subject to due process of law. The State is also having its privilege to abridge the right of individual through duly prescribed procedure. In case of trial of an accused, the balance has to be struck between the right of the accused to roam free and the privilege of the State to have the prosecution in its right earnest. Seeing in view of this, this Court finds that the petitioner has sufficiently been

incarcerated during pendency of the trial. Still trial has not been completed by the prosecution. Therefore, it would not be unjustified if the prosecution is directed to complete its evidence within a specific time, failing which the necessary consequences may be ordered to be invited.

Resultantly, the present petition is disposed of with a direction to the prosecution to complete its entire evidence within a period of 04 months; from the next date fixed before the Trial Court. However, it is further ordered that in case the prosecution does not complete the evidence within next 04 months, as ordered above, then the petitioner would be at liberty to apply for bail, again, before the Trial Court itself, if any part of further delay is not attributable to the petitioner.

16th October, 2018

Shivani Kaushik

**[RAJBIR SEHRAWAT]
JUDGE**

Whether speaking/reasoned *Yes/No*

Whether Reportable *Yes/No*