

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

CRM-M-41760-2018 (O&M)

Date of Decision:-26.9.2018

Ramesh @ Kali

... Petitioner

Versus

State of Haryana

... Respondent

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present:- Mr. Vivek K. Thakur, Advocate for the petitioner.

Mr. Ashok Singh Choudhary, Addl. Advocate General, Haryana.

GURVINDER SINGH GILL, J. (Oral)

By way of filing this petition, the petitioner seeks grant of regular bail in respect of a case registered against him vide FIR No.106 dated 8.3.2016 under Section 302 of Indian Penal Code, 1860 at Police Station Smalkha, District Panipat.

The FIR in question was lodged at the instance of Bhopal, father of the deceased, wherein he stated that his son Rahul aged 14 years had left home on 7.3.2016 stating that he is going to lock the shop but he did not return back. Thereafter, the complainant and other members of his family searched for Rahul but could not trace him. On the next day i.e. on 8.3.2018, some residents of the village informed the complainant that dead-body of his son Rahul was lying in the water channel (khal) in the wheat fields of Mange Ram. The complainant went to the said wheat fields and found the dead-body of his son Rahul lying there, which was bearing injury marks on his neck and forehead. It is further the case of presecution that subsequently

i.e. on 10.3.2016, the present petitioner suffered a disclosure statement before Balkar Singh, Pradhan of the village, admitting that he had killed Rahul with brick.

Notice of this petition was issued to the State.

The learned State counsel has opposed the same.

The learned counsel for the petitioner has submitted that in fact the petitioner is a juvenile, who was born on 8.6.1998, whereas the occurrence took place on 8.3.2016. The learned counsel has submitted that the date of birth of the petitioner is recorded as 8.6.1998 in the matriculation certificate issued by the Board of School Education, Haryana and that the said age is also recorded in the discharge certificate of his father, issued by the Railways Authorities, where the petitioner's father was serving. It has further been submitted that infact it is a case of blind murder and that the petitioner has been falsely implicated in the present case.

On the other hand, the learned State counsel has submitted that the Principal Magistrate, Juvenile Justice Board, Panipat had already discarded the contention of the petitioner regarding his being a juvenile vide order dated 13.8.2018 (Annexure P-5) and that in these circumstances, the petitioner cannot claim the benefit of being a juvenile. It has further been submitted that in view of the specific disclosure statement made by the petitioner himself and also in light of the 'last seen' evidence in the shape of statement of Pardeep Kumar, uncle of the deceased, it is evident that it is the petitioner, who had murdered Rahul.

Having considered the rival submissions addressed before this Court, I find that it is a case, which is based mainly on circumstantial

evidence. The petitioner has been behind bars since the last more than 2½ years. Bearing in mind the aforesaid facts and also the fact that conclusion of trial will take some time as 7 witnesses out of 17 still remain to be examined and also the age of the petitioner, who is a student, the present petition is hereby accepted. The petitioner Ramesh @ Kali is ordered to be released on bail on his furnishing bail bonds/surety bonds to the satisfaction of learned trial Court/Chief Judicial Magistrate/Duty Magistrate concerned.

This present petition stands accepted in above mentioned terms.

26.9.2018

pankaj

(Gurvinder Singh Gill)
Judge

Whether speaking /reasoned

Yes / No

Whether Reportable

Yes / No