

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

Sr. No.219

CRM-M-44872 of 2018

DECIDED ON: November 19, 2018

SUBASH @ DHANNA

..PETITIONER

VERSUS

STATE OF HARYANA

...RESPONDENT

CORAM: HON'BLE MR. JUSTICE SUDHIR MITTAL

Present: Mr. Aditya Sanghi, Advocate,
for the petitioner.

Mr. D.R. Singla, DAG, Haryana.

Ms. Suman Sagar, Advocate,
for the complainant.

SUDHIR MITTAL, J. (ORAL)

The petitioner seeks regular bail in case FIR No. 146 dated 12.06.2017, registered under Sections 302, 201 IPC and Section 3 of Scheduled Caste and Scheduled Tribes (Prevention of Atrocities), Act, 1989, at Police Station Uklana, District Hisar, Haryana.

Learned counsel for the petitioner submits that the investigation in this case is complete but the trial is not likely to be concluded at an early date as 08 more Pws remained to be examined. The petitioner has been in custody since 07.07.2017. The deceased person went missing on 11.06.2017. FIR was registered on 12.06.2017 and the petitioner was not

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named. The complainant suffered a supplementary statement on 04.07.2017, wherein he stated that a third person had conveyed to him that he had seen the deceased person in the company of the petitioner. Thereafter, the petitioner was arrested and his disclosure statement was recorded. Thus, there is no direct evidence against the petitioner. The FSL report shows that no alcohol was detected in the viscera whereas the case of the prosecution is that the petitioner had made the deceased person consume alcohol before pushing him into the canal. Thus, the petitioner deserves to be released on regular bail.

Learned State counsel as well as learned counsel for the complainant opposed the prayer for bail on the ground that on the disclosure statement of the petitioner, a sum of Rs.10,000/- as well as Aadhaar Card and mobile of the deceased person were recovered. Moreover, there is one more case pending against the petitioner *inter alia* under Section 302 IPC, Sections 5 & 7 of the Immoral Trafficking Act and thus, the petitioner does not deserve to be released on regular bail.

In rebuttal, learned counsel for the petitioner submits that initially, according to the disclosure statement of the petitioner, he had stolen a sum of Rs.90,000/- from the deceased person. Thereafter, another disclosure statement was got recorded, according to which, it was allegedly stated that out of a sum of Rs.90,000/-, the petitioner had spent Rs.80,000/-. Moreover, mobile phone allegedly recovered is just shell with nothing inside it. The police appears bent upon framing the petitioner. Regarding the pending case, it is submitted that the said case was on account of a criminal complaint having been filed and that custody certificate dated

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18.11.2018 produced in Court today shows that the petitioner already stands discharged from the said case.

The evidence on record indicates that there is no other criminal case pending against the petitioner. The petitioner has been in custody for 01 year, 04 months and 09 days and the trial is not likely to be concluded at an early date as 08 more Pws remained to be examined. So far as the merits of the case is concerned, the case against the petitioner appears to be weak and thus, I deem it appropriate to release him on regular bail.

Accordingly, the petition is allowed and the petitioner is directed to be released on regular bail on his furnishing bail and surety bonds to the satisfaction of the trial Court concerned.

Any observation made in this order shall have no bearing on the merits of the case.

November 19, 2018

Ankur

**(SUDHIR MITTAL)
JUDGE**

Whether speaking/reasoned

Yes/No

Whether Reportable

Yes/No