

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

CRM-M-50031-2018 (O&M)

Date of Decision:-20.11.2018

Harjinder Singh

... Petitioner

Versus

State of Haryana

... Respondent

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present:- Mr. Jagjit Gill, 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 vide FIR No.262 dated 21.9.2017 under Sections 302, 201 and 34 of Indian Penal Code, 1860 at Police Station Sadar Dabwali, District Sirsa.

The case of the prosecution, in nutshell, is that initially the aforesaid FIR was lodged at the instance of Rohtash son of deceased Anil Kumar, wherein it was alleged that he (Rohtash) had received information from Akshay, his cousin, to the effect that dead-body of Anil Kumar i.e. father of Rohtash was floating in Mammer Khera, Minor Canal and upon receipt of the said information, Rohtash proceeded to the disclosed place and identified the dead-body to be that of his father.

It is further the case of prosecution that subsequently on 13.3.2018, the complainant Rohtash as well as his co-accused i.e. the petitioner Harjinder Singh suffered an extra judicial confession before Ant

Ram, Ex. Sarpanch of the village, to the effect that they had killed Anil Kumar and had thrown his dead-body in the minor canal.

The learned counsel for the petitioner has submitted that aforesaid Ant Ram has been examined during the course of trial and has resiled from his statement. It has further been submitted that infact a polygraphic test was also conducted and as per report (Annexure P-5) of Forensic Science Laboratory, no incriminating response could be elicited during the said polygraphic test.

On the other hand, the learned State counsel has submitted that in view of the nature of allegations and also the fact that the effect of resiling of Ant Ram is yet to be examined by the trial Court, no case for grant of regular bail to the petitioners is made out.

I have considered the rival submissions addressed before this Court.

The case of the prosecution is based solely on circumstantial evidence in the shape of extra judicial confession allegedly made by the petitioner. However, Ant Ram, before whom the said confession was allegedly made, has already resiled, when he stepped into the witness-box. Even the polygraphic test does not advance the case of the prosecution in any manner.

The petitioner has been behind bars since the last more than eight months. In my opinion, no useful purpose will be served by keeping him behind the bars any longer. The present petition, as such, is accepted and the petitioner is ordered to be released on bail subject to his furnishing bail bonds/surety bonds to the satisfaction of the Chief Judicial Magistrate/Duty Magistrate concerned.

It is, however, clarified that none of the observations made above shall be taken to be an expression on merits of the case.

The present petition stands accepted accordingly.

20.11.2018

pankaj

(Gurvinder Singh Gill)

Judge

Whether speaking /reasoned

Yes / No

Whether Reportable

Yes / No