

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

**CRM-M No.50367 of 2018 (O&M)
Date of Decision: 20.12.2018**

Yogesh

..... Petitioner

Versus

State of Haryana

..... Respondent

CORAM: HON'BLE MR. JUSTICE MAHABIR SINGH SINDHU

Present:- Mr. J.S.Bedi, Senior Advocate assisted by
Mr. Lovekirat S. Chahal, Advocate for the petitioner.

Mr. Yashwinder Singh, Deputy Advocate General, Haryana
for the respondent/State.

MAHABIR SINGH SINDHU, J. (Oral)

The present petition has been filed under Section 439 of the Code of Criminal Procedure for grant of regular bail to the petitioner in case FIR No.94 dated 04.04.2018, under Section 302 of the Indian Penal Code, 1860 (*for short 'the Act'*), registered at Police Station Farrukh Nagar, Gurugram.

Brief facts of the case are that father of the petitioner, namely, Chandrup lodged the abovementioned FIR with the allegations that he was residing with his wife-Bala Devi (age 62 years) and son, namely, Yogesh (petitioner), who is married. Further alleged that his wife-Bala Devi slept outside the house in order to take care of his animals, which were tied outside and rest of the family members were sleeping inside. On 04.04.2018 around 05:00 AM, when his son-Yogesh (petitioner) and his wife-Sunita found that Bala Devi (mother of the petitioner) was lying 20-25 feet away from her cot, then they informed to the complainant and upon

which, he went outside and found that his wife had suffered an abrasion on her neck and right cheek and found that there was vermilion (*sindoor*), quarter of a whiskey bottle, incense and pulse/grains lying scattered outside the door of his house. The stole of Bala Devi was lying far away from the cot and she was lying in a dead condition and thus, he suspected the case of strangulation. Initially, the FIR was registered against unknown persons, but on the basis of alleged supplementary statement of the complainant dated 10.05.2018 (Annexure P-2), petitioner is stated to have made extra judicial confession regarding the murder of her mother i.e. Bala Devi.

It is contended by learned Senior Counsel for the petitioner that petitioner was arrested on 03.06.2018 without there being any material and the alleged confessional statement dated 10.05.2018 was in fact has been *ante dated* by interpolating the date from 03.06.2018 to 10.05.2018. Also contended that petitioner has been falsely implicated in the present case as the complainant himself, while appearing as PW-1, has not supported the prosecution case before learned trial Court and his testimony is placed on record as Annexure P-3.

trial will take a long time and as such, it will not serve any purpose by confining the petitioner in prison.

On the other hand, learned State Counsel opposed the bail application and prayed for dismissal of the same.

Heard learned Counsel for the parties and perused the record.

In compliance of order dated 21.11.2018, original copy of the report under Section 173 Cr.P.C. has been received and same has been perused by this Court.

Prima facie, there seems to be an overwriting by the Inspector/SHO on the alleged confessional statement dated 10.05.2018, but the same should not be considered to be an expression of opinion by this Court on the merits of the case and that aspect of the matter be taken into consideration by learned trial Court at the appropriate stage.

Since the complainant himself has resiled from the prosecution case and he has specifically deposed that he has never made any statement dated 10.05.2018 (P-2) before the police which is being used against the petitioner.

In view of above, this Court is inclined to accept the present bail application. Therefore, in view of the abovesaid circumstances, without expressing any opinion on the merits of the case, the present petition is allowed. Petitioner-Yogesh be admitted to bail in the present case on his furnishing bail bonds and surety bonds to the satisfaction of learned trial Court/Duty Magistrate concerned.

December 20, 2018

Gagan

(MAHABIR SINGH SINDHU)
JUDGE

<i>Whether speaking/reasoned</i>	<i>Yes</i>
<i>Whether Reportable</i>	<i>Yes</i>