

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

208

CRM-M-5050-2018

Date of decision: 22.02.2018

Ajay Kumar

...PETITIONER

VERSUS

State of Haryana

....RESPONDENT

CORAM: HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASIH

Present: Mr. Anmol Rattan Sidhu, Sr. Advocate,
with Mr. Pratham Sethi, Advocate,
for the petitioners.

Mr. Sharad Kumar Yadav, Deputy Advocate General, Haryana,
for the State.

Mr. Shalender Mohan, Advocate,
for the complainant.

AUGUSTINE GEORGE MASIH, J. (ORAL)

Petitioner has approached this Court for grant of regular bail after the withdrawal of his earlier application on 21.03.2017 (Annexure P-11).

It is the contention of the learned senior counsel for the petitioner that as per the FIR, the allegation against the petitioner is based upon the hearsay evidence and that of with regard to the statement of the uncle of the complainant-Anil Sharma, namely, Balbir Singh son of Tek Chand, who stated that the petitioner had told him that Sunil had illicit relations with his uncle's daughter and, therefore, the said offence was committed. He contends that in the statement, which he has made before

the trial Court on 17.07.2017 (Annexure P-7), what has been stated is that he had enquired from the *rehariwalas* as well as from the persons, who were residing in the nearby *dhabas*, and who had disclosed that a boy had drowned but no one disclosed that the boy was pushed into the canal. His further submission is that the statements of Manphool and Gajanand on 06.08.2016, after the body of the deceased Sunil was recovered in the proceedings under Section 175 Cr. P.C. where it has been stated that it was an accident, which had taken place and in which Sunil had drowned, were given in the presence of the complainant and he also identified the signatures on those statements. Submission has further been made by the learned senior counsel for the petitioner that as per the statement of Balbir Singh, which was given to the complainant, some alcohol was given to Sunil to drink and it is after that, he was pushed into the canal primarily for the reason that the deceased Sunil had illicit relations with the cousin sister of the petitioner-Ajay. Counsel contends that the petitioner is in custody since 29.08.2016 and the trial is not likely to conclude soon. He, therefore, prays for the grant of benefit of regular bail primarily on the basis that as per the report of the Chemical Examiner, neither any alcohol has been found in the viscera nor has any poison been detected.

On the other hand, learned counsel for the State as well as the learned counsel for the complainant submit that the statement of Balbir Singh, before whom the petitioner had admitted the factum of illicit relations of his cousin sister with the deceased Sunil, has yet to be examined and, therefore, he being a material witness, the petitioner could not be granted the concession of regular bail.

On being enquired by the Court from the counsel for the State

as to whether the said Balbir Singh has been summoned or bound down for the next date of hearing, which is stated to be as 05.03.2018, he states, on instructions from HC Rammchor Singh, Police Station Agroha, District Hissar, that he has not been summoned for the said date.

Keeping in view the fact that the petitioner is in custody for more than 1½ years and the trial is not likely to conclude soon, without expressing any opinion on the merits of the case, the present application is allowed. Petitioner is directed to be released on bail to the satisfaction of the Chief Judicial Magistrate/Duty Magistrate, Hissar.

February 22, 2018

pj

**(AUGUSTINE GEORGE MASIH)
JUDGE**

Whether speaking/reasoned: Yes/No

Whether Reportable: Yes/No