

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-10983-2019 (O&M)
Date of decision: 20.09.2019

Hardeep Singh @ Deepa

... Petitioner

Vs.

State of Punjab

... Respondent

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present: Mr. M.S. Sachdev, Advocate
for the petitioner.

Mr. Jagmohan Ghumman, DAG, Punjab.

ARVIND SINGH SANGWAN, J. (ORAL)

This is 2nd petition for grant of regular bail in FIR No.97 dated 05.07.2018 under Sections 317/304 IPC, registered at Police Station Goraya, District Jalandhar, earlier one was dismissed as withdrawn, vide order dated 23.01.2019, with liberty to approach the trial Court by moving fresh application.

Learned counsel for the petitioner submits that in the FIR, registered at the instance of one Rajdeep Kumar, Panch of the village, it is stated that he came to know that some unknown lady had thrown an infant baby girl, after her birth, in an abundant house of Tarlok Singh and later on, the infant baby girl died. It is further submitted that later on, the petitioner Hardeep Singh @ Deepa and co-accused Jasbir Kaur, biological mother of the child, on the basis of extra-judicial confession made by the petitioner and Jasbir Kaur

before one Gurmail Singh, the police has nominated both of them as accused and arrested them on 09.07.2018.

Learned counsel for the petitioner has argued that aforesaid Gurmail Singh appeared as PW2 and denied that Jasbir Kaur or petitioner Hardeep Singh @ Deepa has approached him or suffered any extra-judicial confession and this witness was declared hostile. During cross-examination by the Public Prosecutor, this witness even denied all the questions put to him with regard to the petitioner and co-accused Jasbir Kaur. It is further submitted that all the private witnesses have been examined and only the official witnesses remain to be examined. It is also submitted that as per DNA report, though it has come that co-accused Jasbir Kaur is biological mother of the female child, however, it is opined that genetic profile of petitioner Hardeep Singh @ Deepa is consistent, as biological father of the female child.

Learned counsel for the petitioner has relied upon a judgment in **Premjibhai Bachubhai Khasiya Vs. State of Gujarat and another, 2009 (4) RCR (Crl.) 189**, wherein the Division Bench of Gujarat High Court has held that DNA science and report is founded on probability theory. When the profiles of accused and child are consistent, it shows a probability as per Random Occurrence Ratio and cannot be treated as conclusive proof and cannot be made use of as sole basis of conviction, in a criminal case, as the Random Occurrence Ratio is not available in the Indian society.

Learned counsel for the petitioner has further submitted that only evidence against the petitioner is aforesaid DNA report, which is yet to be proved. It is also submitted that the petitioner is in custody for the last more than 01 year and conclusion of the trial will take some time.

Learned State counsel, on instructions from ASI Kuldeep Singh and on the basis of DNA report, has not disputed the arguments raised by learned counsel for the petitioner.

Without commenting anything on merits of the case, considering the aforesaid submissions made by learned counsel for the parties, this petition is allowed and the petitioner is directed to be released on regular bail subject to furnishing his bail/surety bonds to the satisfaction of the trial Court/Illaq Magistrate/Duty Magistrate.

Petition is disposed of.

[ARVIND SINGH SANGWAN]
JUDGE

20.09.2019
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Whether speaking/reasoned : Yes/No

Whether Reportable : Yes/No