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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-19955-2019

Date of Decision : May 09, 2019

Kulwinder Kumar

.... Petitioner

Versus

State of Punjab

.... Respondent

CORAM : HON'BLE MR. JUSTICE SHEKHER DHAWAN.

Argued by : Mr. B.K. Mehta, Advocate,
for the petitioner.

Mr. Ajay Pal Singh Gill, DAG, Punjab,
for respondent-State .

SHEKHER DHAWAN, J.

Present petition under Section 439 of the Code of Criminal Procedure is for grant of regular bail to Kulwinder Kumar son of Harbhajan Lal in case bearing FIR No.129 dated 11.10.2018 under Sections 302, 392, 397, 411, 450 IPC (Section 201 IPC added subsequently) registered at Police Station Balachaur, District Shaheed Bhagat Singh Nagar.

2. Facts relevant for the purpose of decision of the present petition; complainant Rakesh Kumar informed the police that his elder brother, namely, Ashok Kumar along with his family members was residing in Village Dugri Bet. His mother, Vidya Devi alias Banso used to reside at Kapurthala as well as Dugri Bet in his house alongwith Monika, aged 10

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year, daughter of his brother, Ashok Kumar. On 11.10.2018 at about 2.30 PM, he received a call from his aunt (Mausi Fabbo Devi) that his mother, Vidya Devi had been murdered by some body. On hearing that, he reached at his village and saw that some unknown persons after trespassing his house, had killed his mother with sharp edged weapon. His niece, Monika told him that when she returned from the school at 2.00 PM, she saw her grandmother killed by somebody.

3. During investigation, Sukhdev Singh son of Sharma Ram disclosed before the Police on 16.11.2018 that accused Hardip Kumar alias Kalu had made extra judicial confession on 14.11.2018 before him that he had committed the murder of Vidya Devi alias Banso as she had refused to make payment of the injections. Sukhdev Singh had also stated that even Hardip Kumar had told him that he had taken the ear-rings of Vidya Devi. On this, Hardip Kumar was arrested and during interrogation, Hardip Kumar disclosed that he had given one ear-ring to his friend, Kulwinder Kumar alias Ronny and as such, present petitioner was arrested. On his disclosure statement, one ear-ring was recovered from bathroom of his house.

4. Learned counsel for the petitioner contended that the petitioner has been falsely implicated in this case and as per the prosecution version, the role in committing the murder of Vidya Devi is not attributed to the present petitioner. At the best, the role attributed to the present petitioner is that main accused Hardip Kumar had handed over one ear-ring to the petitioner, which was got recovered from his house on his disclosure statement. The petitioner is in custody since 2.12.2018 and decision of the case still to take some more time. So, the petitioner be released on bail

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5. Learned State counsel fairly stated that the role attributed to the petitioner is only to the extent of receiving one ear-ring from Hardip Kumar, the main accused in this case.

6. Having considered the submissions made by learned counsel for the parties, this Court is of the considered view that the allegation against the petitioner is that an ear-ring of the deceased was handed over to the present petitioner by the main accused, Hardip Kumar; he is not involved in the murder of Vidya Devi; he in custody since 2.12.2018 and trial of this case still to take some more time, no purpose would be served by keeping the petitioner behind the bars.

7. Resultantly, the present petition stands allowed and petitioner, Kulwinder Kumar is ordered to be released on regular bail subject to his furnishing bail and surety bonds to the satisfaction of the trial Court concerned/Duty Magistrate.

8. Any observation made herein above shall have no bearing on the merits of the case.

(SHEKHER DHAWAN)
JUDGE

May 09, 2019

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Whether speaking/reasoned?	:	Yes
Whether reportable?	:	Yes