

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

CRM-M No. 21627 of 2019

Date of decision : May 20, 2019

Surender @ Shankar

..... Petitioner

v.

State of Haryana

..... Respondent

CORAM : HON'BLE MR. JUSTICE AJAY TEWARI

Present : Mr. Amardeep Hooda, Advocate
for the petitioner.

Mr. Gaurav Bansal, AAG Haryana

Mr. Rajesh Hooda, Advocate
for the complainant.

Ajay Tewari, J (Oral)

The petitioner seeks grant of regular bail in case FIR No.227, dated 2.5.2018, registered under Sections 302, 365, 120-B of the IPC, at Police Station Sampla, District Rohtak.

Earlier the petitioner had filed a petition for anticipatory bail bearing CRM-M No.6596 of 2019 which was decided by the following order :-

“ Prayer in the present petition filed under Section 438 of the Cr.P.C. is for grant of anticipatory bail to the petitioners in case FIR No.227 dated 2.5.2018 registered under Sections 302, 365, 120-B IPC at Police Station Sampla, District Rohtak.

The allegation is that the petitioner alongwith co-accused caused the death of the deceased. The case of the petitioner on the other hand was that the deceased

alongwith co-accused was sitting and drinking and probably also indulging in some other substance abuse and during that binge he lost his consciousness and at that stage the petitioner was called and the only role was that he took the deceased to the hospital. On the other hand it is the case of the prosecution that incident took place 200 yards from the PGIMS, Rohtak yet the petitioner first took the deceased at some private hospital at Sampla and then brought him back to Rohtak and actually the deceased had already died before even being taken to Sampla. As per the prosecution, this shows guilty intent and therefore it is their case that custodial interrogation of the petitioner is very much required.

Counsel for the petitioner has prayed that interim bail should be granted to the petitioner and he would be willing to undergo polygraph test and the question of extension of the bail can be decided after result of the polygraph test.

Counsel for the complainant and the learned DAG have very fairly stated that they would not oppose the demand for polygraph test but the petitioner must be in custody at that time. I find favour in this argument. Learned DAG on instructions from ASI Rajesh Kumar has stated that they require 2-3 days to prepare the questionnaire which has to be put to the petitioner.

In the circumstances, it is directed that the petitioner would surrender on 11.3.2019 at 8:00 a.m and he would be taken to FSL, Madhuban directly and administered the polygraph test. The Director, FSL, Madhuban would ensure that result of the polygraph test is released both to the petitioner and the complainant side forthwith. Thereafter, the petitioner would move an application for regular bail and in case he does so the Trial Court shall decide the same expeditiously in any case within three days.

Petition stands disposed of in the above terms.

A copy of this order be handed over to the learned DAG and counsel for the petitioner under the signatures of the Court Secretary.

Since the main case has been decided, the pending Criminal Misc. Application, if any, also stands disposed of.”

Thereafter, the petitioner was taken into custody and he underwent polygraph test. As per the report thereof, the petitioner is stated to have told the truth to the eight issues raised. Copy of the said report is annexed as Annexure P-5. Custody certificate has been filed as per which the petitioner has been in custody for 2 months and 7 days.

Counsel for the complainant as well as learned AAG Haryana have argued that one of the co-accused has mentioned in his disclosure statement that the petitioner was also privy to the poisoning.

Counsel for the petitioner has argued that admittedly the petitioner was not present when the alleged poisoning was done and he came at the spot only on the call of one of the co-accused and thereafter it was the petitioner who first took the deceased to Surya Hospital and then to the PGIMS Rohtak, and at this stage the only material which is against him is the disclosure statement of a co-accused.

In these circumstances, without commenting upon the merits of the case, and keeping in view the period of custody already suffered by the petitioner, I do not deem it appropriate to deny the concession of regular bail to the petitioner.

Bail to the satisfaction of the trial Court/Duty Magistrate.

Petition stands disposed of.

Since the main case has been decided, the pending C.Ms, if any, also stand disposed of.

May 20, 2019
'kk'

(AJAY TEWARI)
JUDGE

Whether speaking/reasoned:
Whether Reportable:

Yes/No
Yes/No