

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

270

**CRM-M-31760-2019
Date of decision : 13.12.2019**

Sandeep @ Bachhi

.....Petitioner

Versus

State of Haryana

.....Respondent

CORAM: HON'BLE MR. JUSTICE ARUN KUMAR TYAGI

Present : Mrs. Balji Mann, Advocate for the petitioner.

Mr. Arjun Singh Yadav, AAG Haryana.

ARUN KUMAR TYAGI, J (ORAL)

The petitioner has filed present second petition under Section 439 of the Code of Criminal Procedure, 1973 for grant of regular bail to him in case FIR No.407 dated 01.09.2017 registered under Section 365 of the Indian Penal Code, 1860 (for short 'the IPC') at Police Station Sadar, Rohtak to which Sections 302, 201 read with Section 34 of the IPC were added lateron.

His first petition was dismissed as withdrawn by the Coordinate Bench of this Court vide order dated 25.09.2018.

As per the prosecution version given in the FIR lodged by complainant-Rajesh Devi mother of deceased-Naveen, on 23.08.2017 at about 4:30 p.m., Ramu, Bajrang, **petitioner-Sandeep @ Bacchi** and sonu had taken her son-Naveen from his house on the pretext of going out but said Naveen did not return to his house. Since all four of them gave different explanations, the complainant suspected their involvement in disappearance of her son. During investigation skeleton was recovered near the Canal in the area of village Bhalaout on 09.11.2017. On completion of investigation, the police filed report under Section 173(2) of the Cr.P.C. against the petitioner and his co-accused for having committed murder of Naveen and destroying evidence.

Learned Counsel for the petitioner has argued that the FIR was registered merely on the basis of suspicion after undue and unexplained delay of 9 days. Skeleton was recovered near the Canal in the village Bhalaout on 09.11.2017. Teeth extracted from the skeleton was sent to FSL for matching of its DNA with blood sample of mother of deceased-Naveen but as per the FSL report DNA profile could not be obtained from teeth extracted from the skeleton necessary to compare with DNA profile of Rajesh Devi mother of the deceased. There is no cogent and reliable circumstantial evidence as to commission of aforesaid offence by the petitioner. Extra judicial confession of co-accused Sandeep s/o Satbir is not of any evidentiary value against the petitioner in the absence of positive identification of the skeleton. The trial is likely to take long time. No useful purpose will be served by detention of the petitioner during trial. Therefore, the petitioner may be granted regular bail.

On the other hand, learned State Counsel has argued that the petitioner is accused of having committed heinous offence. There is circumstantial evidence including extra judicial confession of the co-accused against him. The petitioner does not deserve the concession of regular bail and the petition may be dismissed.

Keeping in view the facts and circumstances of the case, nature of circumstantial evidence against the petitioner, absence of positive evidence as to identification of skeleton by matching of its DNA profile with that of mother of deceased-Naveen and the fact that trial is likely to take long time but without commenting on the merits of the case, I am of the considered view that the petitioner deserves the concession of regular bail.

Therefore, the petition is allowed and the petitioner is ordered to be released on regular bail on furnishing of bail bonds to the satisfaction of the trial Court/Chief Judicial Magistrate concerned.

13.12.2019

Kothiyal

(ARUN KUMAR TYAGI)
JUDGE

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No