

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

223

CRM-M-41186-2019(O & M)
Date of Decision:30.09.2019

Kailash Chand @ Rocky

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE MANOJ BAJAJ

Present: Mr. Kamal Kant Khera, Advocate
for the petitioner.

Mr. Sukhdeep Parmar, DAG, Haryana.

MANOJ BAJAJ, J.

Petitioner has filed this petition under Section 439 of the Code of Criminal Procedure for grant of regular bail in case FIR No.204 dated 28.08.2017, under Sections 302, 201 and 34 IPC, 1860, registered at Police Station Kunjpura, District Karnal. Petitioner is in custody since his arrest on 11.09.2017.

The FIR was registered on the statement of Ruby w/o Jasbir Singh, wherein she lodged the missing report of her husband since 13.08.2017 who went somewhere without giving any information. The FIR contained the particulars of Jasbir Singh regarding a request to search him.

Learned counsel for the petitioner contends that on 11.09.2017, a dead body (nearly skeleton) was recovered from the sugarcane fields, and it was neither identifiable nor the cause of death was ascertained. He

submits that the statement of Vikram (younger brother of victim) was recorded on 11.09.2017, wherein he stated that on 13.08.2017, Sunny son of Satish came to his house and took his brother Jasbir along with him at Nabipur. He further stated that his sister-in-law talked to her husband-Jasbir (victim), who claimed his presence at Sunny's house. On the next day, Sunny came to his house and met his mother and asked about Jasbir and informed that Jasbir had left his house at 9.00 PM. According to the said witness, a missing report was given at Police Station Kunjpura. According to learned counsel for the petitioner, supplementary statement of complainant was also recorded on 01.12.2017 and according to her when she talked to her husband on 13.08.2017, it was informed by him that he was with Sunny son of Satish Kumar and other relatives of Sunny namely Kailash Chand (petitioner) and Bankim son of Madan Lal were also there. It was stated by her that when she got the report lodged regarding missing of her husband she was not aware about his presence with Sunny and others.

Learned counsel submits that the case of the prosecution is based upon circumstantial evidence and on hearsay material. According to him, there is no evidence to suggest the involvement of the petitioner in the crime. He contends that the petitioner is in custody for the last more than two years and not even a single witness has been examined by prosecution till date and the trial is likely to consume considerable time. He submits that further custody of the petitioner may not be justified.

On the other hand, learned State counsel assisted by Inspector Sonu has opposed the bail application, who submits that it was the statement of the petitioner himself, who confessed the crime by disclosing that on 13.08.2017 when they consumed liquor together. Jasbir, who was coming

along with Kailash Chand and Bankim, then, on the way, they had an altercation. Petitioner along with Bankim killed Jasbir and threw his body in the sugarcane fields. It was submitted by learned State counsel that accused had got identified the place where dead body was thrown and mobile phone was also recovered from the sugarcane fields which was thrown by petitioner.

At this stage, learned counsel for the petitioner submits that the said statement may not have any evidentiary value particularly when it was made before the police and the identification of place of occurrence was meaningless as the dead body already stood recovered. It was further pointed out by him that the recovery of mobile phone was also from the open fields. He further contends that the State counsel is unable to justify the reason behind delay in trial as it is not disputed that the charges were framed on 22.02.2018 and no witness has been examined till date.

Considering the above background and the fact that the trial is likely to take some time, further detention of the petitioner may not be justified. Therefore, without meaning any expression of opinion on the merits of the case, it is ordered that the petitioner be released on regular bail subject to his furnishing requisite bail bonds/surety bonds to the satisfaction of the trial Court concerned.

The petition is allowed.

30.09.2019

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(MANOJ BAJAJ)
JUDGE

Whether Speaking/Reasoned: Yes/No
Whether Reportable : Yes/No