

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-14070-2020

Date of Decision:-21.09.2020.

Rajan

..... Petitioner

Versus

State of Haryana

..... Respondent

CORAM: HON'BLE MR. JUSTICE SANJAY KUMAR

Present: Mr. Rahul Deswal, Advocate for the petitioner.

Ms. Mahima Yashpal, DAG, Haryana.

SANJAY KUMAR, J. (Oral)

The petitioner is one of the accused in FIR No.0314 dated 14.06.2019 on the file of Police Station Sector 9-A, Gurugram, District Gurugram, registered under Sections 302 and 34 IPC. By way of this petition filed under Section 439 Cr.P.C., he seeks grant of regular bail.

The Assistant Commissioner of Police, Gurugram, CAW West, Gurugram, filed a reply opposing the bail petition. Therein, she stated that a written complaint was given by the father of the deceased, Arvind. Therein, he stated that his deceased son had married Anita, the other accused in this case, without his consent. Anita developed intimacy with the petitioner

herein and his son had raised an objection. According to him, Anita and the petitioner had murdered his son. The cause of the death of Arvind was stated to be “asphyxia following *ante mortem* neck compression by ligature”. In the course of the investigation, the petitioner was arrested on 15.06.2019. The police effected recovery of the bed-sheet and the mobile phone of the deceased at the behest of the petitioner from the bushes near Basai Railway Station. Section 34 IPC was thereupon deleted and Section 120-B IPC was added in the case. The charges against the accused were framed on 23.09.2019. The trial in the case commenced and 8 out of the 25 listed prosecution witnesses have already been examined by the Court of learned Additional Sessions Judge, Gurugram. The Assistant Commissioner asserted that as the petitioner was involved in a heinous offence, he would not be entitled to the concession of regular bail as he could misuse such concession by tampering with the evidence and influencing the material witnesses or he may try to abscond and flee from justice.

Though Mr. Rahul Deswal, learned counsel for the petitioner, would contend that there is no evidence to link the petitioner with the offence committed, if any, the evidence of PW3, the landlord, reflects to the contrary. The landlord stated that the deceased was residing on the first Floor of his 3-storeyed house at Bhawani Enclave, Gurugram, along with his wife, Anita, and his two sons, since 6 months prior to the incident. The petitioner was stated to have been residing in the said house earlier but shifted 2 months prior thereto to another house which was adjacent to the landlord's house. He further stated that on 13.06.2019 at about 9.17 a.m.,

his wife received a call from Anita that Arvind was not getting up. Thereupon, the landlord's wife called the petitioner and asked him to come there. The landlord along with his wife then reached the spot and found Anita and the petitioner present there. The dead body of Arvind was lying on a bed and there were ligature marks on his neck. He stated that his relation, Jagdish, then informed the police. In his cross-examination, the landlord stated that it would have taken the petitioner 5 to 7 minutes to reach the spot while he and his wife took about half an hour.

The aforestated deposition clearly shows that the petitioner reached the spot long before the landlord did but took no steps to inform the police. This conduct on his part is telling. That apart, the alleged recoveries made at his behest are also incriminating. Once a *prima facie* case is made out under Section 302 IPC and the police assert that granting of bail may result in the accused either tampering with the evidence or absconding, no grounds are made out to grant relief to the petitioner.

The bail petition is accordingly dismissed.

(SANJAY KUMAR)
JUDGE

September 21, 2020.

sandeep

Whether speaking/reasoned:-

Yes / No

Whether Reportable:-

Yes / No.