

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

PARVEEN KUMAR
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Crl. Misc. M-15296 of 2020
Date of decision: 07.08.2020

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Mohit @ Sonu @ Ankit

....Petitioner(s)

Versus

State of Haryana

...Respondent(s)

CORAM: HON'BLE MR. JUSTICE G.S.SANDHAWALIA

Present: Mr. Bijender Dhankhar, Advocate,
for the petitioner.

Ms. Tanushree Gupta, DAG, Haryana.

(Proceedings are conducted through video
conferencing as per instructions).

G.S.SANDHAWALIA, J. (Oral)

The petitioner seeks regular bail in a petition filed under Section 439 Cr.P.C. in FIR No. 338 dated 03.10.2019 under Sections 302, 34 IPC registered at P.S. Kharkhoda, Sonapat.

Counsel for the petitioner has submitted that the FIR was lodged by Gyaneshwar Prasad, brother of the deceased namely Dharmender, in which the petitioner had not been named. As per the allegations in the FIR, the brother was doing private work with one Yashveer and had come to Haryana for his work and had spoken to the family members on 30.09.2019. They had got information on 01.10.2019 from the Police Station, Kharkhoda that he had died and resultantly, they had come and identified the dead body. Cause of death was not known as it had taken place due to some unknown reason.

Admittedly, the cause of death is shock and hemorrhage as a result of combined injuries which have been described in the post mortem

report. Thereafter, two days later on 03.10.2019, the supplementary statement of the complainant was recorded wherein, the suspicion was raised upon Yashveer that he had caused the injuries to Dharmender, the deceased.

Counsel submits that the petitioner was eventually nominated as an accused on the statement of Kavinder, who is a neighbour of Yashveer. The motive as such was that the deceased had to provide labour, for which he had taken some advance and had failed to do so and neither returned the money.

Thus, the main accused Yashveer, alongwith the present petitioner, have stated to have given beatings with *lathis* and *dandas* to the deceased. It is submitted that since the case of the prosecution is that the deceased was also taken by them to the Civil Hospital, Kharkhoda in Wagon R car bearing No. DL8CH3157, when his condition had deteriorated. The police had also recovered the said vehicle and put up one witness Pardeep to substantiate the recovery of the vehicle. The *danda* had been recovered from the vehicle alongwith 2 mobile phones of the deceased.

It is submitted that both the two witnesses have resiled and turned hostile before the Trial Court when they appeared on 27.02.2020, which would be clear from the statements (Annexures P-3 and P-4) and have not supported the case of the prosecution. It is accordingly submitted that the petitioner, thus, has only been implicated on the basis of the statement of the co-accused Yashveer also and, therefore, the same would not be admissible in law. It is submitted that the petitioner has been in detention since 16.10.2019 and the investigation is complete and trial is

likely to take time as only 5 witnesses have been examined out of the 23 cited.

Counsel for the State, on the other hand, has opposed the bail application on the ground that the vehicle was recovered at his instance on the 17.10.2019 after his arrest on 16.10.2019 and he is stated to have in actual physical possession of the car make Wagon R though, admittedly, not registered in his name but was in the name of one Rohit, resident of Delhi. It is submitted that even the affidavits of the S.P. Sonapat would show that the recoveries were made of the two mobile phones belonging to the deceased Dharmender from the car and the deceased has died due to shock and hemorrhage as a result of injuries inflicted upon by Yashveer and the petitioner.

In the affidavit dated 04.08.2020 filed by the Superintendent of Police, it is apparent that the vehicle was recovered behind Shop No. 78 in the Grain Market, Kharkhoda and it has been averred that it was in the said vehicle the deceased had been taken to the fields, where injuries had been inflicted upon him and thereafter taken to the civil hospital. It is, thus, apparent that the vehicle had also been recovered from a public place and not from the house of the petitioner. Similar is the deposition of PW-4 Pardeep where he has denied that the petitioner had got the vehicle recovered from Anaj Mandi, Kharkhoda.

In such circumstances, this Court is of the opinion that there is no eye witness with the prosecution to the incident as such which would connect the petitioner with the death of the deceased and neither he had any relationship of any business transaction etc. with him. The motive as such,

as noticed, was attributed to the employer Yashveer, who is in custody.

In such circumstances, *prima facie* this Court is of the opinion that the petitioner has undergone detention of over 9 months and the trial is likely to take considerable time to conclude. It would be a moot point as to whether the statement of the co-accused as such would be admissible against him to successfully implicate him for the death of the deceased-Dharmender.

Keeping in view the above, the petition is allowed. The petitioner be released on regular bail to the satisfaction of the Illaqua/Duty Magistrate, Sonapat.

07.08.2020
shivani

(G.S. SANDHAWALIA)
JUDGE

Whether reasoned/speaking Yes/No

Whether reportable Yes/No