

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

CRM-M-21406 of 2020.

Decided on:- August 13, 2020.

Rajnish Kumar.

.....Petitioner.

Versus

State of Punjab.

.....Respondent.

CORAM: HON'BLE MR. JUSTICE HARI PAL VERMA.

Present:- Mr. Rishu Mahajan, Advocate
for the petitioner.

Mr. J.P. Ratra, D.A.G., Punjab.

HARI PAL VERMA, J. (Oral)

The matter has been taken up for hearing through video conferencing due to outbreak of COVID-19.

The petitioner has filed this petition under Section 439 Cr.P.C. for grant of regular bail in FIR No.80 dated 24.11.2018 under Section 302 IPC registered at Police Station Mullanpur Garibdass, District SAS Nagar, Mohali.

The petitioner is son of deceased Rajinder Kumar Vohra and Asha Rani. As per the prosecution, on 30.09.2018, dead bodies of Rajinder Kumar Vohra and Asha Rani along with Activa scooter were found by the police of Police Station Mullanpur near Bhairon temple situated ½ KM towards Baddi side under a bridge. The petitioner, who happens to be son of the deceased was informed about the recovery of the dead bodies. The petitioner made a statement before the police that it was a natural accident and he does not want to take action against anyone. Since the police was not

satisfied, the FIR in question was initially registered against unknown person. However, during the course of investigation, police recorded the statements of Balraj Singh Bajwa and Hemraj, who were friends of deceased Rajinder Kumar Vohra (father of the petitioner). They had stated that deceased Rajinder Kumar was a member of their Chatri Club and he used to tell them that his son Rajnish Kumar (petitioner herein) used to harass him as well as his wife. He also told them that on 04.08.2018, the petitioner had given beatings to Rajinder Kumar and he remained admitted in GMCH Sector 32, Chandigarh. Both of them had an apprehension that the petitioner has committed murder of his parents. The police had also recorded the statement of Sushma wife of Dharam Singh before whom the petitioner had made an extra-judicial confession that he has killed his parents. It is on this basis, the petitioner was named as accused.

Learned counsel for the petitioner has referred to the statement of PW1 Davinder Kumar Vohra, who is none else but the elder brother of deceased Rajinder Kumar Vohra. Attention of this Court has also been drawn to the statements of PW2 Sushma wife of Dharam Singh before whom the petitioner allegedly made an extra-judicial confession and PW13 Balraj Singh son of late Harcharan Singh. All these three witnesses have not supported the case of the prosecution and have been declared hostile.

He has further submitted that the present FIR was registered on the statement of Inspector/SHO Rajesh Hastir and since this witness is not appearing before the trial Court to depose in the case, bailable warrants were issued against him. He has referred to various jimni orders dated 04.12.2019, 03.01.2020, 08.01.2020, 24.01.2020, 07.02.2020, 18.02.2020, 02.03.2020,

09.03.2020 and 23.03.2020 passed by the trial Court. The petitioner is in custody since 12.02.2019.

Learned State counsel has not disputed the fact that PW1, PW2 and PW13 have not supported the case of prosecution and were declared hostile. However, he has submitted that on account of COVID-19 pandemic, other prosecution witnesses could not be examined in the case. He has further submitted that as against 24 witnesses cited by the prosecution, 16 witnesses have been examined in the case.

I have heard learned counsel for the parties.

It is an admitted fact that PW2 Sushma before whom the petitioner had allegedly made extra-judicial confession has not supported the case of the prosecution. Similarly, other material prosecution witnesses i.e. PW1 Davinder Kumar Vohra and PW13 Balraj Singh have not supported the prosecution version. Inspector/SHO Rajesh Hastir against whom repeated bailable warrants have been issued by the trial Court, is not coming forward to depose in the case. It is on account of COVID-19 pandemic, the Courts are not functioning regularly. The petitioner is in custody since 12.02.2019. Therefore, this Court finds that as on date, no incriminating material has come in evidence against the petitioner.

Accordingly, without commenting anything on the merits of the case and considering the fact that the petitioner is in custody since 12.02.2019 and the material prosecution witnesses have not deposed against him, this Court deems it fit to grant the concession of bail to the petitioner.

Accordingly, the present petition is allowed and the petitioner is ordered to be released on bail on his furnishing adequate bail and surety bonds to the satisfaction of learned trial Court/Duty Magistrate.

The observations made hereinabove shall not be construed as an expression of opinion on the merits of the case and the trial Court shall decide the case without being influenced with these observations in any manner.

August 13, 2020
Yag Dutt

(HARI PAL VERMA)
JUDGE

Whether speaking/reasoned:	Yes
Whether Reportable:	No