

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

214

CRM-M No.23985 of 2020

Date of Decision: September 7th, 2020

Samim

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASIH

Present: Ms. Rosi, Advocate
for the petitioner.

Ms. Tanisha Peshawaria, Deputy Advocate General, Haryana.

(PROCEEDINGS THROUGH V.C.)

AUGUSTINE GEORGE MASIH, J. (ORAL)

Prayer in this petition is for grant of regular bail to the petitioner in FIR No.615 dated 18.06.2017 registered under Sections 302, 307, 304-B, 120-B IPC at Police Station Sadar, Karnal.

It is the contention of learned counsel for the petitioner that the petitioner is the brother-in-law of deceased-Amir Bano. Her contention is that even going by the allegation in the FIR that the petitioner along with the husband of deceased as also the elder brother of the husband of the deceased had asked the deceased as well as her both children to get ready for coming to Karnal. Allegation is also that he had made fun of the deceased. Her contention is that the petitioner had never accompanied her brother Faijan, who was the husband of deceased and father of the two minor children, who had been thrown into the canal along with the car, which drowned. Allegation against the petitioner is that he was involved in the conspiracy of killing these three persons i.e. her sister-in-law and the two minor children of his elder brother-Faijan. Petitioner was arrested on 18.01.2018 and is in custody for more than 2 years and 8 months. Because of the prevailing situation, further trial is stalled, with all the prosecution

witnesses examined, the continuation of the petitioner in incarceration would not serve any useful purpose, especially when the allegation against the petitioner is only with regard to the conspiracy. Prayer has thus been made for granting the petitioner the concession of bail.

On the other hand, learned counsel for the State, has submitted that there was an active role of the petitioner in the hatching of the conspiracy. Reference has also been made to an order passed by a coordinate Bench of this Court in CRM-M No.23097 of 2019 on 02.03.2020, where the application of the co-accused namely Mustafa, who had similar role as the petitioner, stands dismissed. Assertion has also been made that it is upon the accused to lead their evidence as the prosecution has closed its evidence. She, therefore, prays that the present petition deserves to be dismissed.

I have considered the submissions made by learned counsel for the parties and have gone through the records of the case.

As per the FIR, the allegations against the petitioner, apart from conspiracy, is that he along with his elder brother Mustafa had asked deceased-Amir Bano and the two children to come to Karnal. It has also been mentioned that they had been laughing at them i.e. making fun of them. It is not in dispute that the petitioner had not accompanied his brother-Faijan while travelling to Karnal in the car, which was either pushed or thrown in the canal along with his wife and two minor children. The aspect of conspiracy finally has to be decided by the trial Court, however, because of the prevailing pandemic, the trial has been stalled as the Courts are unable to proceed with recording of the evidence.

Petitioner is in custody for last more than 2 years and 8 months and keeping

in view the allegations against the petitioner and the period of he being in custody and the uncertainty with regard to the conclusion of the trial, the present petition is allowed.

Petitioner is ordered to be released on bail to the satisfaction of the trial Court/Chief Judicial Magistrate/Duty Magistrate, Karnal.

Any observations made hereinabove are for the purpose of disposal of the present petition alone and shall have no bearing on the merit of the case during the trial in any manner.

September 7th, 2020
Puneet

(AUGUSTINE GEORGE MASIH)
JUDGE

Whether speaking/reasoned: Yes

Whether Reportable: No