

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

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CRM-M-25318-2020(O&M)
Date of Decision: 28.10.2020

VIJAY @ VIJAY PAL

...Petitioner

Versus

STATE OF HARYANA

...Respondent

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Naresh Kumar Ganga, Advocate,
for the petitioner.
Mr. Chetan Sharma, AAG, Haryana

ANIL KSHETARPAL, J.

Hearing of the case was held through video conferencing on account of restricted functioning of the Courts.

The petitioner-Vijay alias Vijay Pal, prays for grant of bail pending trial in a criminal case arising from FIR No.93, dated 27.08.2019, registered under Section 346/302/201/394/457/380/120-B/34/336/420/411 IPC and Section 15(2)/15(3) of the Indian Medical Council Act, at Police Station Odhan, District Sirsa.

The case of the prosecution has been noticed by the learned Additional Sessions Judge, Sirsa, in paragraph 2 of its order dated 17.02.2020, which is extracted as under:-

“The brief facts are that on 27.8.2019 a complaint was received at Police Station. It was alleged therein by complainant Harbhagwan S/of Kana Ram that his sister-in-law (Bhabhi) Kamla Devi, aged 75 years was residing alone at village Peerkhera who was having 10 kanals land and cash amount of 15 l ₹ ac and Dr. Om Parkash who used to call said Kamla Devi as “Maa Ji” was taking care of her properties. About 10-12 days ago said Om Parkash took away Kamla Devi on his motor-cycle to

some place and since then she has not returned to home. On 26.8.2019 a Panchayat was convened in the village and Om Parkash told that they kept an amount of ₹9 lac by digging a hole in the house of Kamla. He further told that he was not aware of the whereabouts of Kamla. The complainant sought stern action to be taken in the matter. In pursuant to this statement, the present case was registered. Accused Om Parkash was joined investigation of this case who suffered disclosure statement admitting his guilt along-with other co-accused. On 1.9.2019 accused Vijay S/of SohanLal (petitioner) and Jagdev son of Amrik Singh were also arrested. The petitioner suffered disclosure statement admitting his involvement in the present case. The petitioner also got recovered cash amount of ₹2,50,000/- and motor-cycle used in the offence. On completion of investigation, challan against the accused was filed. The petitioner is in custody since 1.9.2019. Hence the present petition.”

Learned counsel for the petitioner contends that the copse of the alleged deceased has not been recovered and the petitioner is sought to be indicted as an accused on the disclosure statement of Om Parkash, a co-accused. He further contends that as per the case of prosecution Rs. 2,50,000/- recovered on the disclosure of the petitioner is also from a pit dug in the house of the deceased. He further contends that the prosecution has failed to connect the petitioner with the alleged crime.

On the other hand, Sh. Chetan Sharma, Assistant Advocate General, Haryana, has pointed out that on the disclosure of the petitioner, Rs.2,50,000/- along with a motorcycle used for taking away the deceased, has been recovered.

The petitioner is in detention from 01.09.2019. On completion of the investigation, challan has already been filed in the Court. Learned State counsel failed to draw the attention of the court to any forensic evidence collected by the prosecution against the petitioner.

As noted above, the alleged recovery of Rs.2,50,000/-, is also from a pit, dug in the house of the deceased. Still further, the dead body has not been recovered by the prosecution.

Sh. Chetan Sharma, Assistant Advocate General, Haryana, on instructions from SI Madan Lal, has admitted that the petitioner is not a person with criminal antecedents.

Without commenting on the merits of the case and keeping in view the fact that the petitioner is in detention from 01.09.2019 and conclusion of the trial is likely to take time, the petitioner is directed to be released on regular bail subject to furnishing of adequate surety to the satisfaction of the Chief Judicial Magistrate/Duty Magistrate, concerned.

Accordingly the petition is allowed with the aforesaid directions.

October 28, 2020
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(ANIL KSHETARPAL)
JUDGE

Whether speaking/reasoned :Yes/No
Whether reportable : Yes/No