

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

CRM-M-28170 of 2020

Date of decision : 07.12.2020

Rinku @ Naihna

.....Petitioner

Versus

State of Haryana

.....Respondent

CORAM: HON'BLE MRS. JUSTICE ALKA SARIN

Present: Mr. Abhilaksh Grover, Advocate for the petitioner

Mr. Naveen Singh Panwar, DAG Haryana

ALKA SARIN, J.

Heard through video conferencing.

This is a petition under Section 439 of the Code of Criminal Procedure, 1973 for grant of regular bail to the petitioner in FIR No.33 dated 15.01.2020 registered under Sections 302, 34 and 379 IPC added subsequently at Police Station City Jagadhri, District Yamuna Nagar, Haryana.

In the FIR lodged on the statement of Kanwalbir @ Chajju Ram s/o Munshi Ram it is stated that the said Kanwalbir @ Chajju Ram is doing the business of transport near Aggrasain Chowk, Jagadhri by the name of The Yamuna Golden Transport and on 13.01.2020 he received a phone call from mobile number 9812918379 that my Ashok Leyland truck no.HR46E-6558 with 10 tyres will be reaching Jagadhri after unloading in Muzaffar Nagar, UP and that it should be loaded with goods for Rohtak, Jhajjar, etc. On 14.01.2020 truck no.HR46E-6558 came to Kanwalbir's transport which was driven by Labh Singh s/o Ran Singh Caste Nai r/o Village Ferozpur, PS

Kharkhauda, District Sonipat with conductor who was Rinku s/o Mahavir Caste Thakur r/o Arya Nagar, PS Madrak, District Aligarh UP who gave their names and addresses on Kanwalbir's asking. The driver Labh Singh told Kanwalbir that his owner must have spoken to him and Kanwalbir should get goods loaded in the truck for Rohtak, Jhajjar etc. Kanwalbir asked Labh Singh to take the truck to New Gera Transport Company near Sugar Mill Yamuna Nagar for getting the goods loaded. However on not being able to get the goods loaded Labh Singh and Rinku returned to the transport of Kanwalbir at about 5/6 in the evening. Labh Singh parked the truck in front of the shop of Kanwalbir who informed them that their truck would be loaded in the morning. Labh Singh and Rinku rested in the truck. On 15.01.2020 Kanwalbir came to his shop at about 9.00 am. Around 10.00-10.30 am Kanwalbir received a phone from the owner of the truck Balvaan s/o Sahib Singh r/o Village Gauchhi, PS Beri, District Jhajjar from phone number 9812818379 who said that he could not get through to the driver of his truck and if Kanwalbir could check if the driver was asleep. Kanwalbir went to the truck no.HR46E-6558 which was parked in front of his shop and called the driver but there was no response from inside. Kanwalbir then opened the window from the conductor's side and peeped in and saw the driver Labh Singh lying in dead condition in the cabin and the conductor Rinku was not there. Kanwalbir immediately informed the owner of the truck about this and that the boxes in the cabin were lying open and no items were visible. Kanwalbir then informed the Police who recorded his statement. Kanwalbir suspected that Rinku conductor himself or with his accomplices committed the murder of Labh Singh by strangulation in greed for money and have run off with his money and mobile phone.

The post-mortem of Labh Singh was conducted on 16.01.2020 in which the cause of death is opined to be asphyxia due to strangulation. The time period between death and post-mortem is stated to being between 4 to 36 hours. The petitioner was arrested on 01.02.2020. As per the recovery memo, Rs.5000/- in cash, two photocopies of ration card and one photo of deceased Labh Singh were recovered from the petitioner.

Learned counsel for the petitioner has contended that the petitioner has been falsely implicated in the case and he has not been named in the FIR. In support of his arguments for grant of regular bail it has also been submitted that the challan stands presented by the Police, no further recovery is to be made from the petitioner, there is no eye witness account nor any circumstantial evidence to show the petitioner's involvement in the crime.

The State has filed a detailed reply by way of affidavit of Rajender Kumar, HPS, Deputy Superintendent of Police, Jagadhri (Yamuna Nagar). It has been contended that in his disclosure statement of 01.02.2020 the petitioner had admitted to strangulating Labh Singh and stealing Rs.22,000/- and his mobile phone. In the second disclosure statement of 02.02.2020 the petitioner resiled from the previous statement and only mentioned about stealing Rs.22,000/- and taking the mobile phone, photograph and copy of ration card of Labh Singh. It is submitted that as per the disclosure statement of the petitioner, Rs.5,000/-, copies of the ration card and photograph of Labh Singh were recovered from his house in Arya Nagar, Aligarh, UP. The State also contends that Section 34 IPC has been deleted from the FIR and final report has been presented before the Court and that no other case is registered against the petitioner.

I have considered the rival submissions addressed before this Court. Having regard to the fact that the reliance by the State is only on the disclosure statements of the petitioner and some recoveries made from him and that the petitioner has been behind bars since 01.02.2020 and no further recoveries are to be made from him, the final report having been presented in Court, further the trial is likely to take some time especially in view of the situation created due to the Covid-19 Pandemic, further detention of the petitioner will not serve any useful purpose. There is also no other case pending against the petitioner.

The petition, as such, is accepted and the petitioner is ordered to be released on bail subject to his furnishing bail bonds/surety bonds to the satisfaction of learned Trial Court/Chief Judicial Magistrate/Duty Magistrate concerned.

The prosecution would always be at liberty to apply for cancellation of bail in case the petitioner is found to be misusing the concession of bail, in any manner.

It is, however, clarified that none of the observations made above shall be taken to be an expression on merits of the main case as the same have been made for the limited purpose of deciding the instant bail petition only.

(ALKA SARIN)
JUDGE

07.12.2020
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NOTE: Whether speaking/non-speaking: Speaking
Whether reportable: YES/NO