

**In The High Court for the States of Punjab and Haryana
At Chandigarh**

CRM-M-31374-2020 (O&M)
Date of Decision:- 12.10.2020

Omkar

... Petitioner

Versus

State of U.T. Chandigarh

... Respondent

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present:- Mr. Gursimran Singh Bhatia, Advocate, for the petitioner.

Mr. Ashu Mohan Punchi, PP for U.T. Chandigarh with
Mr. Anupam Bansal, Advocate.

(Proceedings conducted through video conferencing)

GURVINDER SINGH GILL, J. (Oral)

1. The petitioner has filed this petition seeking grant of regular bail in a case registered against him vide FIR No.119, dated 10.4.2018, Police Station Sector 36, Chandigarh, under Sections 302, 120-B IPC.
2. The FIR in question was lodged pursuant to an information received by the police from one unknown person regarding presence of a dead body in a park in Sector 52. Upon receipt of said information the police went to said park and dead body of a young man (later found

to be aged 33 years) was found which was bearing several injuries including a mark of strangulation. Upon inquiry, the deceased was identified as Dharmender whose dead body was identified by his sister Rekha.

3. It is further the case of prosecution that during the course of investigation the police recorded the statement of Umesh Kumar who is owner of House No. 1732, Sector 52, Chandigarh and who stated that Dharmender along with his wife was residing as a tenant on the first floor of his house. He stated that Dharmender confided in him that something unfortunate may happen to him and suspected that his “*saala*” Ramu was having illicit relations with his wife Seema and although said Ramu and Seema were related being brother and sister but he used to touch her inappropriately. During the course of investigation statement of Rekha sister of the deceased was also recorded who also stated that the relation between the deceased and his wife Seema were strained and that she suspected that Seema was having illicit relations with Ramu. To a similar effect was the statement of Sudha who is a neighbour of the deceased.
4. It is further the case of prosecution that after arrest of Ram Kumar he suffered a disclosure statement admitting his guilt that he along with his friend Omkar (petitioner) had done away with the deceased. It is further the case of prosecution that Omkar was also apprehended by the police who also suffered a disclosure statement admitting his guilt. It is the case of prosecution that both Ram Kumar and Omkar admitted that while Ram Kumar had killed the deceased by causing

the injuries and strangulating him, the petitioner-Omkar kept a watch. It is further the case of prosecution that during the course of commission of murder, the deceased had bit the finger of Ram Kumar which started bleeding and that on the asking of Ram Kumar, Omkar brought him fresh clothes. It is also the case of prosecution that the shirt and wallet of Ram Kumar was later on recovered from the house of the present petitioner Omkar.

5. Learned counsel for the petitioner has submitted that it is a case of blind murder based on circumstantial evidence and that there is no evidence worth credence to connect the petitioner with the alleged murder of Dharmender. It has further been submitted that even if the alleged disclosure statements are taken to be correct, still it is the co-accused Ram Kumar who had murdered Dharmender.
6. Opposing the petition, learned State counsel has submitted that from the evidence collected by the police, the complicity of the petitioner is clearly evident especially on account of recovery of the blood stained shirt and wallet of Ram Kumar from the house of Omkar and also from the disclosure statements. Learned State counsel has however, informed that as on date the petitioner has been behind bars since the last about 2 ½ years and that the petitioner is not involved in any other case.
7. I have considered rival submissions addressed before this Court. Having regard to the facts and circumstances of the case especially that it is a case of murder which is based totally on circumstantial evidence and the fact that even as per the disclosure statements, the

admissibility of which would be debatable, it is the co-accused who had killed the deceased Dharmender while the petitioner is stated to have kept a watch and while also noticing that the petitioner as on date has been behind bars since the last 2 ½ years and is not involved in any other case, further detention of the petitioner will not serve any useful purpose. The petition, as such, is accepted and the petitioner is ordered to be released on regular bail on his furnishing bail bonds/surety bonds to the satisfaction of learned trial Court/Chief Judicial Magistrate/Duty Magistrate concerned.

October 12, 2020

mohan

**(GURVINDER SINGH GILL)
JUDGE**

Whether speaking /reasoned

Yes / No

Whether Reportable

Yes / No