

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

CRM-M-32907-2020

Date of Decision: 16.11.2020

Chottu Lal Dass @ Chotu Dass Sharma

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present: Mr. Bhriugu Dutt Sharma, Advocate, for the petitioner.

Mr. Ajay Pal Singh Gill, DAG, Punjab.

(proceedings conducted through video conferencing)

GURVINDER SINGH GILL, J. (Oral)

1. The petitioners have approached this Court seeking grant of regular bail in respect of a case registered vide FIR No.143 dated 17.9.2017 at Police Station Lambran, District Jalandhar under Sections 302, 376, 201 and 34 of Indian Penal Code.
2. The FIR came to be lodged at the instance of Dalip Dass Sharma, son of deceased, wherein it has been alleged that on 16.9.2017, he had arranged a get-together on the occasion of birthday of his son and had invited guests from his brotherhood living in nearby villages. The said party continued till 12:30 A.M. (night time). After the guests had left, the complainant realized that his mother Girja Devi was missing. However, the complainant and his brother thought that their mother had gone out to sleep with land lady of the house. However, since Girja Devi could not be found even on the next day, they went to look out for her and located her dead-body lying near 'bajra fields'. It is

alleged that while the shirt of Girja Devi was found torn, her *salwar* and underwear were found missing and there were wounds with some sharp edged weapon on her face and there were other 'blunt injuries' as well. The complainant suspected that Chote Lal Dass, in an inebriated condition, had committed rape upon her mother and had murdered her.

3. The learned counsel for the petitioner has submitted that the present case is a case based totally on circumstantial evidence and that the prosecution is mainly relying upon evidence in the shape of 'last seen' evidence, wherein it was found that one Swaran Singh had seen the petitioner in the company of deceased, while they were quarreling with her and on 'extra judicial confession' allegedly made by accused before one Jarnail Singh.
4. The learned counsel has submitted that both the aforesaid witnesses have, however, been examined during the proceedings of the trial but none of them has supported the case of the prosecution. Learned counsel has further submitted that the petitioner in any case deserves the concession of bail on the ground of parity since three of his co-accused, namely, Mithlesh, Veeru and Vikas have already been granted bail.
5. The learned State counsel while opposing the petition has submitted that the petitioner cannot claim parity with his co-accused as the petitioner is specifically named in the FIR while his co-accused were nowhere named. Learned State counsel has however informed that the petitioner as on date has been behind the bars for the last more three years.

6. I have considered rival submissions addressed before this Court.
7. It is no doubt correct that the name of the petitioner specifically figures in the FIR, but he has been named therein on the basis of suspicion and it is not the case that the complainant had himself seen the petitioner. Prosecution mainly relies upon the 'last seen' evidence in the shape of Swaran Singh, who while appearing in the witness-box has not supported the case of the prosecution and has resiled from his statement. Similarly, Jarnail Singh before whom the petitioner had allegedly made extra judicial confession has also not supported the case of the prosecution. The co-accused, namely, Mithlesh, Veeru and Vishal have already been granted bail by this Court while noticing the aforestated facts. In these circumstances and keeping in view the custody period of three years and also on the ground of parity, the petition merits acceptance and is hereby accepted. The petitioner is ordered to be released on bail subject to their furnishing bail bonds/surety bonds to the satisfaction of trial Court/Chief Judicial Magistrate/Duty Magistrate concerned.

(GURVINDER SINGH GILL)
JUDGE

16.11.2020

Vimal

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