

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

CRM-M-36929 of 2020.

Decided on:- December 11, 2020.

Rakesh @ Tonu.

.....Petitioner.

Versus

State of Haryana.

.....Respondent.

CORAM: HON'BLE MR. JUSTICE HARI PAL VERMA.

Present:- Mr. Sunil Saharan, Advocate
for the petitioner.

Ms. Gaganpreet Kaur, A.A.G., Haryana.

HARI PAL VERMA, J.

The matter has been taken up for hearing through video conferencing due to outbreak of COVID-19.

The petitioner has filed this petition under Section 439 Cr.P.C. for grant of regular bail in FIR No.262 dated 20.09.2017 under Sections 120-B, 201 and 302 read with Section 34 IPC (Sections 148, 149 IPC were deleted after investigation) registered at Police Station Adampur, District Hisar.

The aforesaid FIR was registered on the statement of complainant-Dilbag son of Surja Ram. As per the FIR, on 11.09.2017, Vikram (deceased) younger brother of the complainant took meals and after receiving a telephonic call had gone on a black coloured Bajaj Platina

motorcycle bearing registration No.HR-32-6104 at about 01.00 P.M. Thereafter, the complainant made a telephonic call to Vikram at about 04.30 P.M. but somebody else picked up his phone and informed the complainant that the phone is on charging and after coming of Vikram, he will ask Vikram to have a talk with him. In the evening, the complainant again made a telephonic call and found that the phone of Vikram was switched off. He searched for his brother here and there.

On 17.09.2017, the complainant had gone to Adampur and came to know that his brother Vikram was called by Shiv Kumar son of Balraj, his mother Kalo wife of Balraj, resident of Indira Colony, Mandi Adampur, Hisar. On the next day i.e. 18.09.2017, the complainant again went to the village and enquired from the respectable persons and took them to the house of Shiv Kumar at Indira Colony. Azad son of Zile Singh, Shiv Kumar son of Balraj, Kalo wife of Balraj, Jyoti daughter of Balraj and brother-in-law of Shiv Kumar were present there. When the complainant had asked whereabouts of his brother from them, they replied that their boy has gone and their daughter has also gone. The issue should be forgotten. The complainant enquired from them about his brother Vikram several times, but they told him that they should forget about their boy. The complainant was of the firm view that his brother has been killed by accused Azad son of Zile Singh, Shiv Kumar @ Fauji, Kalo wife of Balraj, Jyoti daughter of Balraj and brother-in-law of Shiv Kumar and they have concealed his dead body.

The petitioner was arrested in the case. During investigation, he suffered a disclosure statement regarding his involvement in the commission of crime.

Learned counsel for the petitioner has argued that the petitioner is innocent and has falsely been implicated in the case. A bare perusal of the FIR would show that neither the name of petitioner find mention in the FIR nor any kind of description is mentioned therein. Except the disclosure statement of petitioner and that too before the police during custody, there is no incriminating material available with the prosecution to connect the petitioner with the alleged offence.

He has further submitted that initially, the petitioner was admitted on bail, but the complainant approached this Court by way of petition i.e. *CRM-M-26469 of 2018* tilted as *Dilbhag Versus State of Haryana and another* seeking cancellation of his bail and the same was allowed by this Court vide order dated 10.05.2019. Against the order dated 10.05.2019 passed by this Court, the petitioner had approached Hon'ble Supreme Court, but his SLP was dismissed by the Apex Court, however, liberty was granted to the petitioner to approach the trial Court for the relief of bail and the trial Court was further directed to consider his bail application on merits and in accordance with law. Since learned trial Court has dismissed the bail application of the petitioner vide order dated 28.02.2020, the petitioner has filed the present petition seeking regular bail.

It is argued that the examination-in-chief of complainant Dilbag has already been completed and the case is now pending for his cross-examination, but at this stage, an application under Section 319 Cr.PC was filed by the complainant, and the same is pending decision before the trial Court. In this manner, the trial is likely to take sufficient long time. Once the

complainant has been examined before the trial Court, there is no chance of extending any threat or to pressurise the complainant or try to win over the complainant at this stage. The petitioner is languishing in jail for about 2 years.

Learned State counsel has argued that the allegations levelled against the petitioner are serious. It is a double murder case of honour killing of two young persons by the family members of the girl. Therefore, the petitioner is not entitled to be released on bail.

I have heard learned counsel for the parties.

Present is a case of double murder i.e. honour killing of two young persons by the family members of the girl. No doubt, initially the trial Court has admitted the petitioner on bail, but the complainant approached this Court for cancellation of his bail and this Court, vide order dated 10.05.2019 passed in *CRM-M-26467 of 2018* titled as *Dilbhag Versus State of Haryana* has elaborately considered the case of the petitioner and cancelled his bail. As per the prosecution version, two young persons were killed by the family members of the girl and they were killed after giving sulphas etc. Their dead bodies were thrown in the canal, which were recovered in the area of Rajasthan. One of the dead bodies was identified by co-accused Shiv Kumar as of his sister. A motorcycle was also recovered from the canal. The place of occurrence was also identified by the accused.

Considering the fact that it is an honour killing of two young persons and the evidence of complainant is yet to be completed, this Court does not find any reason to admit the petitioner on bail at this stage.

The present petition is, accordingly, dismissed.

It is made clear that the observations made hereinabove shall not be construed as any expression of opinion on the merits of the case and is confined to present bail application only. The trial Court shall not be influenced with the observations made hereinabove in any manner.

December 11, 2020
Yag Dutt

(HARI PAL VERMA)
JUDGE

Whether speaking/reasoned:	Yes
Whether Reportable:	No