

204 IN THE HIGH COURT OF PUNJAB & HARYANA

AT CHANDIGARH

CRM-M-38373-2019

Date of Decision: 04.12.2020

JITENDER

..... Petitioner

Versus

STATE OF HARYANA

..... Respondent

CORAM: HON'BLE MR. JUSTICE SUDIP AHLUWALIA

Present: Mr. Rajesh Bansal, Advocate, for the petitioner.

Ms. Tanushree Gupta, DAG, Haryana.

SUDIP AHLUWALIA, J. (ORAL)

This is a petition for regular bail under Section 439 Cr.P.C. on behalf of the petitioner, in case FIR No.1206 dated 28.12.2017, under Section 365 of the IPC (later on added Sections 397, 302, 201, 408 and 120-B of the Indian Penal Code), registered at Police Station Chandni Bagh, Panipat District Panipat.

[2]. Background of the case is that complaint was moved by complainant Sonia Rani with regard to abduction of her father Sukhdev Singh by some unknown persons, upon which the FIR in the present case was originally registered under Section 365 IPC on 28.12.2017. When the father of the complainant could not be traced out, an untrace report was prepared on 11.05.2018. However, later on a dead body was found on 21.05.2018 at Patran

Sangrur Road Flyover, Dighal Kalan near a canal which was later

on identified as the dead body of the father of the complainant.

When the matter was further investigated, it was found that the driver employed on the truck of the deceased namely Rajesh had conspired with the petitioner Jitender and co-accused Balkar in order to commit murder of the deceased and to rob his truck. They had sold the Truck in Punjab to co-accused Kamaljit Singh alias Billa. It is the case of the prosecution that on the date of incident while co-accused Rajesh was driving the truck, applicant Jitender and co-accused Balkar strangled the deceased with the help of a rope and committed the crime in question.

[3]. Ld. Counsel for the petitioner has contended that his client has been falsely implicated in the present case whereas the applicant had committed no offence. It is submitted that no specific allegation has been made against the applicant and no injury has been attributed to him. The deceased was not known to the applicant and he had no motive to murder him. It is submitted that the applicant has been arrested on the disclosure statement of co-accused Rajesh and nothing has been recovered from his possession to connect him with the crime in question. The DNA report is not in favour of the prosecution.

[4]. It has been further contended that by now the petitioner has remained in custody for almost two and a half years since 16.06.2018 while the trial is not proceeding and, therefore, he

should not be detained for an indefinite period in this manner.

[5]. After going through the available material on record as well as the bail order in favour of co-accused Kamaljit Singh by a Coordinate Bench of this Court on 30.01.2019 in CRM-M-3130-2019, this Court is of the opinion that the present petitioner stands on an entirely different footing from the co-accused Kamaljit Singh.

[6]. This is so because the involvement of Kamaljit Singh was found to have been restricted to having purchased the stolen Truck from co-accused Rajesh and the other co-accused persons, but he was neither a part of the conspiracy, nor had any knowledge of the fact that owner of the truck had been murdered before sale of the Truck to him.

[7]. Nevertheless, the said co-accused still continues to face trial despite having been granted bail. In the present case, even assuming that the disclosure statements given by the accused persons, or the petitioner himself during investigation cannot form the basis of conviction of any of them, yet the fact that Motor Cycle of the deceased was recovered from the house of the petitioner is a vital aspect, which would go to prima facie indicate his involvement in the disappearance of the deceased, going by the statements given by the complainant in her deposition as PW-I in the Trial Court, extracts of which have been filed on behalf of the

petitioner himself here in as Annexure P-4 with the bail petition.

Further, the purported delay in trial at-least during the current year (2020) cannot be attributed entirely to the prosecution side because it is well known that all regular proceedings/trial in the various courts of the State have become seriously hampered due to outbreak and prevalence of the COVID-19 pandemic.

[8]. For the above, this does not appear to be a fit case to release the petitioner on bail, considering the nature of his involvement, and gravity of the offences in the case.

[9]. Dismissed.

04.12.2020

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**(SUDIP AHLUWALIA)
JUDGE**

1. Whether speaking/reasoned: Yes/No
2. Whether reportable: Yes/No