IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

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CRM-M-52576-2019
Date of decision: 12.02.2020

Kuldeep Singh @ Rana .....Petitioner

Versus

State of Punjab .....Respondent

CORAM: HON'BLE MR. JUSTICE ARUN KUMAR TYAGI

Present : Mr. Akashdeep Singh, Advocate
for the petitioner.

Mr. Sandeep Singh Deol, D.A.G., Punjab
for the respondent.

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ARUN KUMAR TYAGI, J (ORAL)

The petitioner has filed the present (first) petition under Section 439 of the Code of Criminal Procedure, 1973 (for short, "the Cr.P.C.") for grant of regular bail in case FIR No.75 dated 19.04.2017 under Sections 302 read with Section 34 of the Indian Penal Code, 1860 (for short, "the IPC") and Section 3(2)(V) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (for short, "the 1989 Act") registered at Police Station Sohana, District SAS Nagar (Mohali).

The facts relevant for disposal of the petition are that on the morning of 14.03.2017 girl named Dimple aged about 18 years was found dead on her bed in her parental house. Proceedings under Section 174 of the Cr.P.C. were conducted. Rajinder Singh father of the deceased made statement that his daughter returned to the parental house at night in partially unconscious state and thereafter she slept and was found dead in the morning. Post mortem was conducted on the

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body of the deceased and the doctor reserved his medical opinion subject to the report of chemical examiner and the hystopathological report. As per the post mortem report, there were no injury marks on the body of the deceased. As per the opinion given by the Board of Doctors on 18.09.2017, cause of death was poisoning due to aluminum phosphide and there was no spermatoza detected in the vaginal swab. Rajinder Singh father of the deceased lodged FIR No.75 dated 19.04.2017 under Section 302 read with Section 34 of the IPC, alleging that the petitioner Kuldeep Singh and co-accused Binder had taken his daughter from home, given some poisonous/intoxicated material to her and raped her. Co-accused Binder was declared proclaimed offender vide order dated 07.10.2017. On completion of investigation report under Section 173(2) of the Cr.P.C. was filed against the petitioner under Section 302 read with Section 34 of the IPC and Section 3 of the 1989 Act. The petitioner, who is in custody since 08.05.2019, has filed the present petition for grant of regular bail.

Learned State counsel has appeared and opposed the bail application in terms of status report filed by way of affidavit of Mr. Ramandeep Singh PPS, Deputy Superintendent of Police, City-II, District SAS Nagr (Mohali).

I have heard learned counsel for the petitioner and learned State counsel and gone through the record.

Learned counsel for the petitioner has submitted that the petitioner has been falsely implicated in the case. The complainant changed his version and lodged FIR after expiry of more than one month. As per the opinion given by the Board of Doctors on

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18.09.2017, cause of death was poisoning due to aluminum phosphide and there was no spermatoza detected in the vaginal swab. None of the prosecution witnesses has stated about having seen the petitioner taking away the girl and their statements as to involvement of the petitioner in the crime are based on mere hearsay. No recovery of any incriminating material from the petitioner was effected. Due to its pungent smell, aluminum phosphide could not be administered deceitfully or forcibly. Trial is likely to take long time. No useful purpose will be served by detention of the petitioner in custody. Therefore, the petitioner may be ordered to be released on regular bail.

On the other hand, learned State counsel, on instructions from ASI Harjinder Singh, has submitted that during investigation call details of mobile phone of the petitioner, his co-accused and the deceased were obtained and as per call details record it was found that the petitioner and his co-accused were in touch with deceased Dimple prior to the date of occurrence as well as on the date of occurrence. Co-accused Binder could not be arrested and was declared proclaimed offender. In view of the gravity of the accusation, the petitioner does not deserve the concession of regular bail. Therefore, the petition may be dismissed.

Keeping in view the facts and circumstances of the present case, which is based on circumstantial evidence, nature of accusation against the petitioner, the evidence mainly being in the form of call details record obtained during investigation, absence of recovery of any other incriminating material from the petitioner, period of custody of the petitioner and the fact that the trial is likely to take long time but

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without commenting on merits of the case, I am of the considered view that the petitioner deserves the concession of regular bail.

Therefore, the petition is allowed and the petitioner is ordered to be released on regular bail on furnishing of bail bonds to the satisfaction of the trial Court/Chief Judicial Magistrate/Duty Magistrate concerned.

12.02.2020 (**ARUN KUMAR TYAGI**)
Vinay **JUDGE**

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

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