

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

**CRM-M-13721-2019
Date of decision: 21.01.2021**

Ajay @ Ajay Sangwan

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present:- Mr. Keshav Pratap Singh, Advocate
for the petitioner.

Mr. Deepak Kumar Grewal, DAG, Haryana.

Mr. Manjeet Singh, Advocate
for the complainant.

ARVIND SINGH SANGWAN, J. (Oral)

This petition has been filed under Section 439 of the Code of Criminal Procedure for grant of regular bail to the petitioner in case FIR No. 160 dated 23.08.2018, registered under Sections 302, 364, 212, 120-B and 34 of the IPC Act at Police Station Behal, District Bhiwani.

Learned counsel for the petitioner submits that as per allegations in the FIR, registered at the instance of Kuldeep Chaudhary son of Banwari Lal, it is stated that Ravinder, who is son of his uncle Hoshiar Singh, was married to co-accused Parmod 8-9 years ago and one male child was born out of this wedlock. On 22.08.2018, there was a heated argument between deceased Ravinder and his wife Parmod and on that account, Parmod left the matrimonial home. Later on, the complainant came to know that Ravinder has died and when he was going to know about the same, he met his maternal uncle Bir Singh and Mahinder and found that the dead

body of Ravinder was lying in a Bolero vehicle having sharp injuries on the left back side of head, palm and other parts of the body. Thereafter, Bir Singh told that aforesaid Mahinder came to his house and told that the in-laws of Ravinder have caused injuries to him (Ravinder). When Bir Singh reached hospital, he found that Anil (brother of co-accused Parmod and brother-in-law of deceased Ravinder) and his maternal uncle Kuldeep were standing there and after sometime, both of them left away.

Learned counsel for the petitioner further submits that petitioner is neither related to co-accused Anil and Parmod nor he is named in the FIR.

Learned counsel refers to the statement of one Satbir, recorded under Section 161 Cr.P.C., who has stated that on 22.08.2018, when he was going towards his fields, he saw that Ravinder was sitting in a vehicle in the middle and Anil was sitting with him and a boy was driving the vehicle. It is further stated that he noticed the number of the vehicle and saw that a boy was standing on the backside of the vehicle and one person was sitting.

Learned counsel further refers to the statement of PW-1/complainant Kuldeep Chaudhary, who has deposed on the same line that when he had gone to village Jhumpa, he found the dead body of Ravinder and Anil and Kuldeep s/o Shri Chand were standing in nearby, who after sometime, escaped from that place. In examination-in-chief, this witness identified Anil, Kuldeep and Parmod, who were present in Court.

Learned counsel further refers to the statement of PW-2 Bir Singh, who also stated that when he reached in village Jhumpa, he saw an ambulance where the body of Ravinder was lying and Anil and Kuldepp

were standing there.

Learned counsel further refers to statement of PW-3 Satbir to submit that he has made a drastic improvement from his statement recorded under Section 161 Cr.P.C. before the police. This witness, in examination-in-chief, has stated that he saw that Ravinder was sitting in the Bolero between Anil and Manjeet, where Anil was sitting on the back seat and Manjeet was sitting on driver's seat and petitioner Ajay was standing in the loading area of the Pick Up Daala and co-accuse Sunil was sitting on the loading area. The relevant part of the cross-examination of this witness as referred to by learned counsel for the petitioner is reproduced below:

“I did not disclose the name of Ajay son of Om Parkash, Manjeet son Balbir and Sunil @ Sonu son of Vinod in my statement given to the police. I had mentioned in my statement to the police that parentage and the residential address of Anil (confronted my statement Ex.D2, wherein it is not so recorded). I stated to the police that there Ravinder since deceased along with Anil son of Dhan Singh, resident of village Harpalu, District Churu Rajashtan, Manjeet cousin brother of Anil son of Balbir Singh, resident of village Harpalu and Ajay son of Om Parkash and Sunil son of Shri Vinod Kumar, both residents of Rajgarh were sitting (confronted my statement Ex.D2, wherein it is not so recorded). I stated to the police that when, I covered some distance then the pick up dalla blew the horn then, I again turned back and saw that Ravinder was sitting in between Anil and Manjeet. Anil was sitting on the conductor side and Manjeet was sitting in the driver side and that accused Ajay son of Om Parkash was standing in the loading area of the pick up dalla and accused Sunil son of Vinod

Kumar was sitting in the loading area on the back side (confronted my statement Ex.D2, wherein it is not so mentioned about the names of accused Ajay, Sunil and Manjeet). I had not seen Kuldeep at the spot at that time. My house is at a distance of 2 killas from the house of deceased. My uncle Hoshiyar Singh told me about the death of Ravinder since deceased on the next for the first time at about 11:00AM. I met the police for the first time in police station Behal on 23.08.2018 at about 11:00AM along with Hoshiyar Singh, PW Kuldeep and Sarpanch and others. Immediately, on my arrival in police station, Behal. I made statement to the Police. I remained in police station, Behal for one hour and thereafter, I straightway came back to village Bushan from Police Station Behal. I knew accused Manjeet, Ajay and Sunil prior to the occurrence by their names and address but I did not disclose their names to the police in my statement.”

Learned counsel for the petitioner further submits that this witness has clearly admitted that he did not disclose the name of the petitioner, Manjeet or Sunil in the statement given to the police and when he was confronted with aforesaid statement Ex. D2, it was found to be not mentioned.

Learned counsel further submits that this witness has further admitted that he knew co-accused Manjeet, Anil and Sunil prior to incident but he did not disclose their name to the police in his statement recorded under Section 161 Cr.P.C.

Learned counsel further submits that in the absence of aforesaid statement, the only evidence against the petitioner will be the disclosure statement of co-accused Anil and it will be a matter of trial whether the

same will be admissible against the petitioner or not.

Learned counsel further submits that no motive is attributed to petitioner, rather the same is attributed to accused Anil that he, being brother-in-law of Ravinder, on account of taking revenge from him for beating his sister Parmod, caused injuries to Ravinder, due to which, he died.

Learned counsel further submits that petitioner is in judicial custody since 23.09.2018 and all the private witnesses have already been examined and only official witnesses remain to be examined.

It is further submitted that during the entire period, there is no such allegation that any of the accused persons has tried to tamper with the evidence.

Learned State counsel has not disputed the factual position.

However, learned counsel for the complainant submits that as per the postmortem report, a number of injuries have been reported on the dead body of Ravinder and the injuries were caused with intention to kill him and not to teach him any lesson and ultimately it resulted into death of Ravinder.

Learned counsel for the complainant, however, could not dispute the cross-examination of witness Satbir, wherein he has admitted that in his statement recorded under Section 161 Cr.P.C., he has not named the petitioner.

After hearing learned counsel for the parties and considering the aforesaid submissions made by them and also in view of the fact that petitioner is in judicial custody for the last about two years and four months

and all the main witnesses have already been examined, the instant petition is allowed. The petitioner is ordered to be released on regular bail on his furnishing bail/surety bonds to the satisfaction of the trial Court/Duty Magistrate/Illaqa Magistrate, concerned.

21.01.2021

Waseem Ansari

(ARVIND SINGH SANGWAN)
JUDGE

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No