

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

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CRM-M-17505-2020 (O&M)

Date of Decision: 08.11.2021

Rakesh Kumar

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present: Mr. Naveen Batra, Advocate,
for the applicant/petitioner.

Mr. Harbir Sandhu, AAG, Punjab,
assisted by ASI Narender Singh.

GURVINDER SINGH GILL, J.

CRM-37112-2021

In view of the reasons mentioned in the application, the same is allowed and the statements of PW-5 Deepak Kumar-complainant and PW-6 Dr. Kirandeep Kaur are taken on record as Annexures P-6 & P-7 respectively.

CRM-M-17505-2020

1. The petitioner has approached this Court seeking grant of regular bail in respect of a case registered vide FIR No.148 dated 23.11.2019 at Police Station Nangal, District Rupnagar, under Section 302/34 IPC.
2. The FIR in question was lodged at the instance of Deepak Kumar (brother of deceased Babli Rani), wherein it is alleged that his

sister Babli Rani was married to Rakesh Kumar (petitioner) about 6 years back and had been blessed with two children i.e. a girl aged about 5 years and a boy aged about 7 months. It is alleged that on 22.11.2019, he received a telephonic call from his brother-in-law Rakesh Kumar to the effect that when he returned back from his shop to his house, Babli Rani was found lying unconscious on her bed and that they were taking her to Nangal. The complainant alongwith his brother Abhishek Sharma immediately rushed to village Sainsowal where the petitioner was residing. They took Babli Rani to BBMB Hospital, Nangal, where she was declared dead. The complainant alleged that he suspected that Babli Rani had been murdered by Jaspal Singh, uncle of the petitioner; Usha Rani wife of Jaspal Singh; Chanchala Rani wife of Ram Pal, aunt of the petitioner and Shikha, daughter-in-law of Chanchala Rani, in connivance with each other.

3. Learned counsel for the petitioner has submitted that he is nowhere named in the FIR and has falsely been nominated as an accused after more than 2 months of the occurrence on the basis of an alleged extra judicial confession made by the petitioner on 02.02.2020 before Vallabh Singh, Ex-Sarpanch of another village i.e. village Harsa Bela Patti Dulchi, as per whom Rakesh Kumar had confessed his guilt before him. Learned counsel has further submitted that such extra judicial confession would hardly carry any evidentiary value and in fact the same virtually stands demolished by the statement of PW-5 Deepak Kumar (complainant), who has virtually given a clean chit to the

petitioner, when examined in the witness-box on 20.09.2021 (Annexure P-6).

4. Opposing the petition, learned State counsel has submitted that the petitioner, having specifically admitted his guilt before a respectable person i.e. an Ex-Sarpach, cannot escape from his liability and that in fact he is the main accused. It has further been submitted that since the deceased Babli Rani was found murdered by way of strangulation in her matrimonial home, the petitioner being her husband would have much to explain particularly in view of the provisions of Section 106 of the Evidence Act and that a presumption can safely be drawn against him regarding his guilt. Learned State counsel has, however, informed that the petitioner as on date has been behind bars since the last 1 year, 8 months & 26 days and is not involved in any other case. It has also been informed that as on date only 6 PWs out of cited 25 PWs have been examined.
5. I have considered rival submissions addressed before this Court.
6. It is not in dispute that the petitioner is not named in the FIR, wherein 4 other persons have been specifically named. The petitioner came to be nominated on the basis of an alleged extra judicial confession made by him before one Ex-Sarpanch, the admissibility of which would be debatable. In any case, the very fact that the complainant i.e. PW-5 Deepak Kumar in his statement dated 20.09.2021 (Annexure P-6) has categorically stated that the police has falsely implicated Rakesh Kumar and has not conducted fair investigation, would demolish the case of the prosecution qua

the petitioner, as the only evidence left against him would be the extra judicial confession, which would not be of much avail to the prosecution. The petitioner, in any case, has been behind bars for a substantial period of 1 year, 8 months & 26 days. Conclusion of trial is likely to consume time, as till date only 6 PWs out of cited 25 PWs have been examined. The petitioner is not even stated to be involved in any other case previously. In these circumstances, further detention of the petitioner will not serve any useful purpose. The petition, as such, is accepted and the petitioner is ordered to be released on regular bail on his furnishing bail bonds/surety bonds to the satisfaction of learned trial Court/Chief Judicial Magistrate/Duty Magistrate concerned.

08.11.2021
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(GURVINDER SINGH GILL)
JUDGE

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