

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CRM-M-33858-2021

Date of decision : 28.10.2021

Sandeep

... Petitioner

Versus

State of Haryana

... Respondent

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr.Vivek Goyal, Advocate
for the petitioner.

Mr.Manish Dadwal, AAG, Haryana.

(Through Video Conferencing)

VIKAS BAHL, J.(ORAL)

This is the first petition under Section 439 Cr.P.C. for grant of regular bail to the petitioner in FIR no.20 dated 02.02.2021 registered under Section 346 of IPC (Sections 302, 201, 203, 182, 120-B IPC added later on) and (Section 346 IPC has been deleted), at Police Station Babain, District Kurukshetra.

The brief facts of the prosecution case is that Parshant Kaushik, the main accused in the case, had filed a complaint to the police to the effect that his wife Neha Rani, who was earlier living in her parental home, returned to him after a compromise and after he had slept, she had without disclosing anything to the said Parshant Kaushik, left the house and accordingly, an FIR was registered under Section 346 IPC. As per prosecution case, the petitioner had made an extra judicial confession before Jagpal and Ashok Kumar to the effect that it was the said Parshant Kaushik,

who had murdered his wife and after murdering his wife, had given Rs.2500/- to the petitioner to help him in disposing of the body. On the basis of the said extra judicial confession and the statements of Jagpal and Ashok Kumar, before whom, extra judicial confession was made, the offences under the present FIR were converted to offences under Sections 302, 201, 203, 182, 120-B IPC and Section 346 IPC was deleted.

Learned counsel for the petitioner has submitted that in the present case, the dead body has not been found till today. Even in case, the best case of the prosecution is taken, then also the petitioner is only liable for offence under Section 201 IPC. It is argued that the petitioner is involved in the present case on the basis of alleged extra judicial confession made before Jagpal and Ashok Kumar, which in itself is a very weak piece of evidence. It is also submitted that the petitioner is not related to the said Parshant Kaushik and the entire version of the prosecution does not seem to be correct inasmuch as it was Parshant Kaushik himself, who had got the present FIR registered. It is not even *prima facie* proved whether Neha Rani is living, or dead as her dead body has not been recovered and if she is dead then whether it is a case of a natural death or murder. It is submitted that the petitioner is not involved in any other case and he has been in custody since 21.02.2021 and the challan has already been filed and there are 22 witnesses in all, out of which only one has been examined and thus, the trial is likely to take time.

Learned State counsel has opposed the bail petition and has submitted that the petitioner has helped the main accused Parshant Kaushik in disposing of the dead body of Neha Rani by throwing it in the canal. It is further argued that material witnesses are yet to be examined and there is a

likelihood of the petitioner influencing the said witnesses. The other factual assertions brought forth by the learned counsel for the petitioner are not disputed by the learned State counsel.

Keeping in view the above said facts and circumstances, more so, the fact that the present FIR was registered on the complaint of the main accused Parshant Kaushik and the dead body of the deceased has not been recovered till date and the only role attributed to the present petitioner as per the prosecution case is that he had helped the main accused Parshant Kaushik in disposing of the dead body of the deceased and took Rs.2500/- and there is no allegation of his having committed the murder of Neha Rani and also the fact that the petitioner is not related to the said Parshant Kaushik and the offence under Section 302 IPC was added only on the basis of extra judicial confession of the petitioner before Jagpal and Ashok Kumar which in itself is a weak piece of evidence and the question as to whether the said Nehra Rani is living or is dead and in case, she is dead then whether it is a case of natural death or murder is matter of trial as the dead body of Neha Rani has not been recovered, and the petitioner is in custody since 21.02.2021 and there are 22 witnesses and the trial is likely to take some time, more so in view of the Covid pandemic situation and the petitioner is not involved in any other case, the present petition is allowed and the petitioner is ordered to be released on bail on his furnishing bail / surety bonds to the satisfaction of the concerned trial Court/ Duty Magistrate and subject to the fact that he is not required in any other case.

However, nothing stated above shall be construed as a final expression of opinion on the merits of the case and the trial would proceed independently of the observations made in the present case which are only

for the purpose of adjudicating the present bail application.

It is also made clear that in case the petitioner does any act to influence any of the witnesses, it will be open to the State to move an application for cancellation of bail.

(VIKAS BAHL)
JUDGE

October 28, 2021
Davinder Kumar

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