

**IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH.**

CRM-M-51712-2021(O&M)

Date of Decision:-16.12.2021

Rinku.

.....Petitioner.

Versus

State of Haryana.

.....Respondents.

CORAM:- HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present:- Mr. Ashit Malik, Advocate for the Petitioner.

Mr. Saurabh Girdhar, Assistant Advocate General, Haryana.

JASJIT SINGH BEDI, J.(ORAL)

The prayer in this petition is for the grant of regular bail under Section 439 Cr.P.C. in case FIR No.307 dated 12.07.2020, under Sections 302, 34 IPC, 1860 (charge framed under Sections 302, 120-B, 201 and 34 IPC), registered at Police Station, Kharkhoda, District Sonapat, who is in custody since his arrest on 14.07.2020.

The FIR was registered on the statement of Devendri, who stated that she has two sons, elder one is Satish Kumar and younger to him is Manoj Kumar, who is unmarried. On 05.07.2020 at about 10.00 a.m., Anurag son of Anil came in their house and told Manoj Kumar that his father is calling him. She and her daughter-in-law, namely, Reena came outside and saw one red colour vehicle was standing and Anil was sitting on the side seat of driver and Monu was sitting on driver seat and on the rear

seat Rinku was sitting. They told her that they are going for a tour and would return after 2-3 days. On 07.07.2020 at evening, she found Anil in front of their house and she inquired about Manoj. When he did not satisfactorily replied, she shared this conversation with her son Satish, who visited at Anil's house and upon inquiry, Anil disclosed that they all are together and would return after 1-2 days. On the same day, she received the information that one dead body was found in village water house. She and her son became tensed and Satish and another person visited the water house, where they came to know that police took the dead body with them. Thereafter, her son went to PGI Khanpur to see the dead body, but due to this pandemic the official did not allow him. On the next day, they visited the police station and identified the photograph and clothes of Manoj. On 08.07.2020, the post mortem examination of her son was conducted and they took the dead body with them and cremated the same. They visited the house of Rinku, Monu and Anil to inquire the matter, but they ran away from their houses. She believed that Anil, Monu, Rinku and another person committed the murder of Manoj after hatching a conspiracy. On these broad allegations, the above FIR was registered.

Learned counsel for the petitioner has argued that the FIR was lodged by the mother of the victim, who stated that her son Manoj Kumar went for picnic with his friends, who were named in the FIR and subsequently his dead body was found, whereupon the FIR was registered. He further submits that undoubtedly the petitioner has been named by the complainant and in the statements of witnesses. However, he argued that the version of last scene would be insufficient to sustain conviction in the absence of any other material evidence. He submits that the victim died of

drowning on 07.07.2020, whereas the FIR was registered after a delay of five days and that the prosecution witnesses, namely, Jitender @ Jita, Devender @ Dishu and Shillu @ Shilla have all been examined before the trial court. He also states that pendency of an application under Section 319 Cr.PC would further delay the conclusion of the trial.

On the other hand, learned State counsel, assisted by SI Umesh, has opposed the prayer for the grant of bail, but does not dispute this fact that the victim died of drowning in a well. According to him, the son of the complainant along with his friends was taking bath in the well and they all were consuming liquor also and the persons, who were along with him, did not allow him to come out which resulted in his death. He, on instructions, further states that out of total seventeen prosecution witnesses, six have been examined and the application by prosecution under Section 319 Cr.P.C. has been moved after recording the examination-in-chief of the complainant.

After hearing the learned counsel for the parties, considering the above background and the fact that the material witnesses including the complainant mother Devendri (examination in chief only) have already been examined, this court is of the opinion that the possibility of conclusion of trial in near the future is bleak, moreso when an application under Section 319 Cr.PC is pending adjudication. Apart from it, the case of the prosecution is based upon circumstantial evidence and the remaining witnesses are police officials, and there does not seem to be any possibility of their being won over, thus, the further detention of the petitioner behind the bars may not be necessary, since he has been in custody since 14.07.2020.

Resultantly, without meaning to express any opinion on the merits of the case, the petition is allowed and it is ordered that the petitioner-**Rinku** be released on regular bail subject to his furnishing requisite bail bonds/surety bonds to the satisfaction of the trial Court/CJM/Duty Magistrate, Sonipat.

It is further ordered that if any attempt is made by the petitioner or by anyone on his behalf to pressurize any witness or otherwise tamper with the evidence, then the State would be at liberty to move for cancellation of bail.

(JASJIT SINGH BEDI)
JUDGE

December 16, 2021

Vinay

<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether reportable</i>	<i>Yes/No</i>