

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

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CRM-M-2960-2022 (O&M)

Date of Decision: 24.03.2022

Ashok Kumar

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

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

Mr. Rajiv Sidhu, DAG, Haryana,
assisted by ASI Rajesh Kumar.

(proceedings conducted through video conferencing)

GURVINDER SINGH GILL, J. (Oral)

1. The petitioner has approached this Court seeking grant of regular bail in respect of a case registered against him vide FIR No.27 dated 05.02.2021 at Police Station Kunjpura, District Karnal, under Sections 302/201 IPC.
2. The prosecution case was set in motion pursuant to the statement made by one Rameshwar, wherein he stated that on 05.02.2021, when he was proceeding towards his fields at about 6.30 AM and was about 2 kms away from the bridge of Avardhan Canal, Bara Gaon Darad, then he noticed two young persons on a motor-cycle, who had kept a person covered with a *Chaddar* (large sheet made of cloth) in between them and the said persons while stopping their motor-cycle on the bridge, dragged the person who was sitting between them and threw him in canal and ran away from the spot. The complainant alleged that he immediately rushed

- to the bank of the canal and noticed a dead body, which was lying partly in canal and partly on the edge of the same and shortly thereafter drifted with the flow of water. The complainant furnished information to the Sarpanch and consequently several persons including Sarpanch and the local police came to the spot. The dead body was taken out of the canal.
3. It is the case of the prosecution that after about 2 months i.e. on 31.03.2021, statement of one Babita was recorded by the police, who identified the deceased from his photograph to be Praveen, who had earlier been working in the hotel being run by Babita from October 2019 to December, 2020 and was paid Rs.200/- per day. She further stated that said Praveen was addicted to liquor and spent his entire salary on the same and in fact also used to beg liquor from truck drivers, who used to come in her hotel frequently to take meals. She stated that Praveen had been doing work in the hotels situated on Karnal-Indri road for the last about 10/12 years and that he used to come to her hotel only for 4/5 days in a month. She further stated that recently Praveen had been working at Mahaluxmi Vaishno Dhaba, which was being run by Ashok Kumar and Poli and that the said persons can disclose that as to who had killed him.
4. It is further the case of the prosecution that upon receipt of aforesaid information from Babita, the investigating agency arrested Ashok Kumar (petitioner), who disclosed that he had a dispute with the deceased, who was in inebriated condition and that the deceased had slapped him (Ashok Kumar) on account of which he had hit him with a stick leading to his death. He further disclosed that he (Ashok Kumar) with the help of co-accused Poli threw his dead body in the canal. It is further the case of

- the prosecution that pursuant to the aforesaid disclosure statement, the petitioner Ashok Kumar got recovered the stick used in the commission of offence and also the motor-cycle on which the dead body of Praveen had been taken and thrown in the canal.
5. Learned counsel for the petitioner has submitted that it is a case based mainly on circumstantial evidence and that nobody had seen the alleged commission of murder and the prosecution mainly relies upon the disclosure statement made by the accused himself, which would hardly carry any value. It has further been submitted that Rameshwar on whose statement the FIR was lodged has been examined during the course of trial and has not supported the case of prosecution and did not identify the accused and was declared hostile.
6. On the other hand, learned State counsel while opposing the petition has submitted that when the test identification parade was conducted, Rameshwar had duly identified the petitioner to be the person, who had thrown the dead body of the deceased and as such, his complicity is clearly evident. It has further been submitted that the call details collected by the police during investigation clearly show that several calls were exchanged between the petitioner and co-accused Poli, which would show that they had frequent conversation with each other on the day of occurrence. Learned State counsel has, however, informed that the petitioner as on date has been behind bars since the last more than 11 months and that he is not involved in any other case.
7. I have considered rival submissions addressed before this Court.

8. It is not in dispute that nobody had witnessed the alleged commission of offence. The prime witness of the prosecution was PW Rameshwar on whose statement the FIR was lodged and who is stated to have identified the petitioner to be the accused when test identification parade was conducted. However, when the aforesaid Rameshwar stepped into the witness-box, he did not identify the petitioner to be the accused and has not supported the case of the prosecution and was declared hostile. The petitioner, otherwise, has been behind bars for a substantial period of more than 11 months and is not even stated to be involved in any other case. Conclusion of trial will consume time.
9. Having regard to the totality of the facts and circumstances of the case, further detention of the petitioner will not serve any useful purpose as the conclusion of trial will take some time. 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.

24.03.2022

Vimal

(GURVINDER SINGH GILL)
JUDGEWhether speaking/reasoned: **Yes/No**Whether reportable: **Yes/No**