

CRM-M-2670 of 2022

Date of Decision : 26.04.2022

Sumit Kumar

.....Petitioner

Versus

State of Haryana

.....Respondent

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Ms. Aashna Gill, Advocate for the petitioner

Ms. Ambika Luthra, Addl. AG Haryana

ALKA SARIN, J.:

This is the second petition under Section 439 of the Code of Criminal Procedure, 1973 for grant of regular bail to the petitioner in FIR No.272 dated 10.07.2020 under Section 302 of the Indian Penal Code, 1860 registered at Police Station City Kaithal, District Kaithal, Haryana. The first petition for bail (CRM-M-41618-2020) was dismissed as withdrawn vide order dated 18.01.2021.

As per the case of the prosecution, the complainant Baldev Singh son of Trilok Singh resident of Guru Nanak Colony, Pehowa and now residing at Sethan Mohalla, Kaithal informed the Police that his son Rohit alias Laddi had been working in HS factory owned by one Dev Raj since the past 4-5 years. Rohit alias Laddi went for work on 09.07.2020 at about 9:00 AM but did not return home. On 10.07.2020 at about 6:00 AM the factory owner Dev Raj came to the house of the complainant and informed that his son was in a serious condition. Both of them went to the factory and found that Rohit alias Laddi was lying dead there. After the post-mortem the cause

of death was ascertained to be an injury to vital centre in the brain along with asphyxia which is resultant of multiple injuries. The FIR was lodged against unknown persons. On 10.07.2020 additional statement of complainant Baldev Singh and statement of owner of the factory were recorded. The complainant stated that the petitioner had fights and arguments with the deceased Rohit and that he had no doubt that his son had been killed by the petitioner. The factory owner stated that the deceased Rohit had been complaining about the conduct of the petitioner who was a co-worker in the factory and that he suspected that the petitioner had killed deceased Rohit alias Laddi and fled away. He furnished the mobile numbers of the deceased Rohit and the petitioner. On 11.07.2020 the petitioner was arrested.

Learned counsel for the petitioner has contended that the petitioner has not been named in the FIR and neither has any overt act been attributed to him. She has submitted that the petitioner has been falsely implicated in the case and during trial PWs Baldev Raj (owner of the factory), Pankaj and Dr. Ashish Mittal had not supported the case of the prosecution. The petitioner has already been in custody since 11.07.2020 and no further recovery is to be made from him.

Learned counsel for the State has opposed the grant of bail. A reply by way of affidavit dated 07.04.2022 of Sh. Vivek Chaudhary, Deputy Superintendent of Police, AEC, Kaithal, has been filed. It is stated that the accused (petitioner) after being arrested on 11.07.2020 got recorded his disclosure statement as per his own free will and without any pressure and disclosed that he and Rohit @ Ladi (deceased) were good friends since long time and they were both working in the factory of Baldev Raj at Partap Gate,

Kaithal. Rohit used to visit his house and was having bad intentions towards Sonia wife of the accused (petitioner) and whenever the petitioner made phone call to his wife then Rohit used to snatch the mobile phone from him and started talking to her. It is further stated in the reply that the accused (petitioner) was having a grudge and to teach a lesson to Rohit he killed him. The accused (petitioner) made the deceased Rohit drunk during the intervening night of 9/10 at 3:00AM and by taking benefit of his inebriated condition the accused (petitioner) gave hammer blow on the head of Rohit due to which Rohit fell down on the floor of the factory near wooden bed lying in the factory and thereafter he again inflicted injuries with hammer on both ribs of Rohit and also inflicted injuries on his legs. Due to injury with hammer the bleeding started from Rohit's nose and he fell on the floor. On finding Rohit dead the accused (petitioner) made phone call from his mobile to Baldev Raj owner of the factory and ran away from the spot due to fear. It is further stated that the accused (petitioner) got recovered the hammer used in the commission of the offence from the disclosed place in pursuance to his disclosure statement. Out of a total of 21 witnesses 6 witnesses have been examined and 3 witnesses have been given up. As per the reply the petitioner is not involved in any other case.

Heard.

One of the material prosecution witnesses – Baldev Raj – the owner of the factory where both the petitioner and deceased Rohit used to work, has denied making a statement to the Police and has been declared hostile. The other prosecution witness – Pankaj – from whom liquor was allegedly procured to make deceased Rohit drunk, has denied even knowing the petitioner. Even the doctor who conducted the post mortem of the

deceased Rohit has stated that the possibility of the injury on the deceased Rohit being caused by falling on hard surface or heavy iron machinery cannot be ruled out. The petitioner has been in custody for over 20 months. The statement of the complainant has been recorded. There is no other case against the petitioner and nothing is to be recovered from him.

Keeping in view the above facts and without commenting upon the merits of the case, I deem this to be a fit case for grant of regular bail to the petitioner. The petition is allowed and the petitioner is directed to be released on bail subject to his furnishing bail bonds/surety bonds to the satisfaction of the Illaqa Magistrate/Duty Magistrate/Trial Court concerned.

However, the Prosecution will always be at liberty to apply for cancellation of bail in case the petitioner is found to be misusing the concession of bail in any manner.

It is also made clear that any observation made herein shall not be treated as an expression of opinion on the merits of the case.

Disposed off. Pending applications, if any, also stand disposed off.

26.04.2022
jk

(ALKA SARIN)
JUDGE

NOTE : Whether speaking/non-speaking : Speaking
Whether reportable : YES/NO