

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

(211)

CRM-M-17084-2022
Date of decision:- 29.07.2022

Devender

... Petitioner

Versus

State of Haryana

... Respondent

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present:- Mr. Arun Singal, Advocate for the petitioner.

Ms. Deepshikha Chauhan, AAG, Haryana
for State-respondent.

...

SUVIR SEHGAL, J. (ORAL)

Instant petition has been filed under Section 439 of the Code of Criminal Procedure, 1973 seeking grant of post-arrest bail in case FIR No. 121 dated 02.05.2021, registered for offence under Section 365 of the Indian Penal Code, 1860 (for short "IPC"), however, later on Sections 201, 302 and 34, IPC were added, at Police Station Model Town, Panipat, Annexure P-1.

Version of the prosecution is that FIR, Annexure P-1, has been registered on the statement of Usha on the allegation that when she had gone to meet her mother, her son, Lucky, had a quarrel with his sister, Rama, aged 13 years, whereupon, Rama left her paternal home. Despite extensive search, she could not be located. Request has been made to find her missing daughter.

By referring to the supplementary statement of the complainant recorded on 04.05.2021, after two days of the registration of the FIR, counsel for the petitioner submits that the complainant stated that on enquiry, she found that her son, Lucky suspecting that his sister, Rama, had stolen Rs.15,000/-, hit her with a wooden stick, which proved to be fatal. Her body was disposed of in a water canal by her son, nephew-Devender (present petitioner) and sister-in-law, Balbir Kaur @ Beero. He submits that on the basis of the supplementary statement, Sections 201, 302 and 34, IPC were added. Counsel submits that the most crucial prosecution witness, Usha-complainant, has been examined, but she has not supported the case of the prosecution. He submits that the petitioner, who is in incarceration since 06.05.2021, deserves to be released on bail as the trial is likely to take time to conclude.

Per contra, State counsel has invited the attention of the Court to the reply filed by way of an affidavit of Deputy Superintendent of Police Traffic, Panipat, which is taken on record. She could not dispute the fact that the complainant was declared hostile by the Trial Court. By referring to the medical opinion, Annexure R-5, she submits that the death had taken place due to drowning. Still further, upon instructions received from SI, Ram Niwas, she submits that the prosecution has a list of 29 witnesses, out of which two have been examined.

Having heard counsel for the parties, this Court is prima facie of the view that the culpability of the petitioner in the offence would remain a matter to be adjudicated by the Trial Court. The petitioner, who is in

custody for the last more than one year and two months, would be entitled to be released on bail as there is little possibility of an early conclusion of the trial.

Without adverting to the merits or de-merits of the arguments addressed by the counsel for the parties, petition is allowed. The petitioner is ordered to be released on bail on furnishing adequate bail/surety bonds to the satisfaction of the Area Magistrate/Duty Magistrate concerned.

It is clarified that nothing said hereinabove shall be construed to be an expression of opinion on the merits of the case.

(SUVIR SEHGAL)

JUDGE

29.07.2022

Kamal

Whether Speaking/Reasoned	Yes/No
Whether Reportable	Yes/No