

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

210

CRM-M-20655 of 2021(O&M)

Date of decision :23.08.2022

Vikas

.....Petitioner

VERSUS

State of Haryana

.....Respondent

CORAM: HON'BLE MR. JUSTICE SANJAY VASHISTH

Present:- Ms. Renu Dhull, Advocate, for the petitioner.

Mr. Ashish Kumar Yadav, Addl. A. G., Haryana.

SANJAY VASHISTH, J. (Oral)

Petitioner-Vikas who is aged about 21 years has filed first petition under Section 439 Cr.P.C., for concession of regular bail in case FIR No.224 dated 06.08.2020, Police Station Kalayat, under Sections 201, 302, 34 of IPC 1860, District Kaithal, Haryana.

As per version of the FIR dated 06.08.2020 (Annexure P-1), neither petitioner has been named nor any specific role has been attributed to him. Version of the FIR reproduced in paragraph No.1 is extracted hereinbelow:

“ FIR No.224 dated 06.08.2020, Police Station Kalayat, under Sections 201, 302, 34 of Indian Penal Code, 1860 District Kaithal. The facts are as:- To, The Incharge Officer, Police Station Kalayat. Jai Hind. Today on dated 06.08.2020, a telephonic message was received in Control Room Kaithal through which an information was received that in Village Badsikri Kalan a girl has been murdered by her family members and the dead body of the girl be taken form cremation in the village ceremonial. You should reach on the spot and take appropriate legal action. Upon receiving this information, I alongwith companions HC Balwan No.674, HC Kulbir No.352, C Vinod No.758 in a Government vehicle bearing registration no.HR-08-AB-6622 which was driven by HC Surajmal No.298 reached cremation ground of Badsikri Kalan. Upon reaching we saw that a dead body was burning there was nobody present over there. That with the help of companions, I arranged water from the adjacent Govt. school building and took out the fire of the dead body. Upon investigation, we found that the half burnt body which was

recovered from the fire was of one girl namely Meenu daughter of Ram Pal @ Pappu resident of Badsikri Kalan. Upon investigation we found out that the family members of Meenu have murdered Meenu and in order to disposed off the dead body have tried to criminate her. Whereupon offence under Section 302/201 of IPC have been found committed and after writing a note the same is being sent through C Vnod Kumar No.758 to Police Station for registration of the case and the number of the same will be informed after registration of the FIR. Another investigation officer be sent on the spot alongwith photographer, report prepared sent to the higher officials for further investigation. Duty Magistrate alongwith the team of doctors be sent on the spot. I am present on the spot to make them aware of the circumstance. Please Cremation ground Badsikri Kalan Sd/- Kulbir Singh ASI Police Station Kalayat dated 06.08.2020 at 11:00 AM. XXXXXX”

During the course of investigation, all the accused were arrested and their disclosure statements were recorded and certain recoveries of cloth (*parna*) etc. were made. Counsel for the petitioner submits that petitioner is related as cousin brother of the deceased in the village brotherhood and no active role even as per the disclosure statement has been assigned to the present petitioner. Counsel for the petitioner, refers para 8 of the impugned order dated 01.02.2021 vide which bail application of the of the petitioner was dismissed by learned Additional Sessions Judge, Special Court, Kaithal. As per reproduction of the role of the petitioner, cause of death of Meenu is with the help of *cloth (parna)* and she was strangled by co-accused Parvesh upon the direct instigation of another co-accused Rani i.e. mother of deceased Meenu and **present petitioner-Vikas was standing outside**. It is not the case of the State that said Vikas was standing outside having some arm in his hand guarding the spot. Thus, implication of the petitioner in the alleged murder of Meenu would be examined by the trial Court after appreciation of the evidence led by the prosecution in the Court.

disclosure statement of petitioner-Vikas mentioned in para 8 of the said order dated 01.02.2021 (Annexure P-2), no where it has been admitted by the petitioner that he made any attempt to cause any bodily injury to Meenu or had at any point of time thrashed her. Learned counsel for the petitioner further submits that role of standing outside only, cannot be considered an act of sharing common intention in murdering Meenu. Counsel for the petitioner with the aforementioned submissions press that petitioner should be granted concession of regular bail.

In response, learned State counsel submits that it is a case of 'honour killing' and release of the petitioner on bail would send a wrong message to the society. Prosecution is basically relying upon the disclosure statement of the petitioner/accused. Learned State counsel further submits that co-accused Rani had made an extra judicial confession before his employer namely Balwinder regarding the incident.

Undoubtedly, reliability and admissibility of such confession would be a moot question at the time of final decision of the trial before the trial Court. No observation can be given at this stage qua said extra judicial confession and whether the same would be binding against the co-caused i.e. present petitioner or not.

Learned State counsel further submits that out of 39 prosecution witnesses, 19 prosecution witnesses have been examined and next date for recording of the statements of other witnesses is fixed as 27.09.2022. Learned State counsel admits the fact that petitioner is inside jail since 06.08.2020 and many witnesses are yet to be examined but still opposes the prayer for bail because the offence is very serious.

submissions made by both the sides and is of the view that prosecution has still to prove that it is equipped with any sound evidence to prove culpability of present petitioner-Vikas. Only on the basis of alleged disclosure statement of the petitioner or other co-accused, petitioner cannot be kept behind bar for indefinite period. Already more than 2 years of incarceration has been undergone by the petitioner and about 13 prosecution witnesses are yet to be examined. In the totality of the circumstances, I consider it appropriate to grant concession of bail to accused Vikas during the pendency of the trial.

The petitioner is ordered to be released on bail on his furnishing requisite bail bonds/surety bonds to the satisfaction of the trial Court/Duty Magistrate, concerned.

The observation made hereinabove shall not be construed as an expression on the merits of the case or any reflection on the quality of evidence and the trial Court shall decide the case on the basis of available material.

Petition is allowed and disposed of accordingly.

(SANJAY VASHISTH)
JUDGE

August 23, 2022
anil

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