

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

CRM-M-18847-2022

Date of Decision: 29th August, 2022

Rohit Kaura

.....Petitioner

VERSUS

State of Punjab

.....Respondent

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN.

Present: Mr. Yashpal Thakur, Advocate for the petitioner.
Mr. Vipin Pal Yadav, Addl.A.G., Punjab.

AVNEESH JHINGAN, J (ORAL)

1. This petition is filed seeking regular bail in case FIR No.256, dated 3rd July, 2018, under Section 356 of Indian Penal Code, 1860 (Sections 302, 201, 120-B IPC added later on), registered at Police Station Zirakpur, District SAS Nagar (Mohali), Punjab.

2. The brief facts are that FIR was registered under Section 365 of Indian Penal Code, 1860 on the complaint received from Anil Kumar. It was alleged that the accused named in the FIR (including petitioner) had taken Rs.80,000/- from the son of the complainant Aditya, on pretext of sending him abroad. He was told that training was being imparted at Delhi Airport. On 21st June, 2018, complainant found that phone of his son was switched off. During investigation, the dead body of the deceased was recovered from the drain in Panipat. Rohit Kaura-Petitioner and Lakhbir Singh @ Lucky were arrested and identified by the complainant. The confessional statements were recorded that the deceased was killed by co-accused and petitioner along with Amritpal Singh helped to dispose of the body by carrying it in a car bearing registration No. PB01-B-4715.

3. Learned counsel for the petitioner claims parity of the petitioner with the co-accused Amritpal Singh @ Sukha, who was granted

bail by this Court vide order dated 9th December, 2021 by passing the following order:-

“The petitioner is seeking regular bail in FIR No.256 dated 03.07.2018, under Section 365 IPC (Sections 302, 201, 216, 120-B IPC added later on), registered at Police Station Zirakpur, District SAS Nagar.

Learned counsel for the petitioner contends that in the challan, it has been alleged that the co-accused Lakhbir Singh had stated that when he and the deceased were alone and under influence of liquor, he had pushed the deceased on the bed and he sat on the head of the deceased on the pillow due to which he died. He further contends that later on, the co-accused Lakhbir Singh called the petitioner and the co-accused Rohit Kaura and they had helped him in the disposal of the dead body in a drain near Panipat. He, therefore, contends that prima facie case under Section 302 IPC would not be made out against the petitioner and as per the challan, only an offence under Section 201 IPC is attracted to the case of the petitioner. The petitioner is in custody for over 3 years and 4 months and does not have any criminal antecedents. He also contends that in the medical opinion, cause of death could not be ascertained. There is no motive which is attributed to the petitioner.

Learned State counsel has filed affidavit of DSP, Sub Division, Zirakpur, District SAS Nagar wherein it is stated that the Medical Officer, who was asked to give opinion regarding the cause of death, had opined as under:-

“After perusal of PMR, FSL reports, I am of the opinion that no definite opinion as to the cause of death can be furnished.”

It is also stated that the co-accused Lakhbir Singh after the death of the deceased had called the petitioner and co-accused Rohit and 03 of them disposed of the body of the deceased. He also states that 09 out of 21 prosecution witnesses have been examined.

Heard.

In view of the above, especially when the petitioner is in custody for over 03 years and 04 months, Covid 19 pandemic and the conclusion of the trial is likely to take some time, I deem it a fit case to grant the concession of regular bail to the petitioner.

Therefore, without expressing any opinion on the merits of the case, the petition is allowed. The petitioner is ordered to be released on regular bail on his furnishing requisite bonds to the satisfaction of the trial Court/Duty Magistrate concerned.”

4. Learned State counsel opposes the prayer for bail but on instructions is not able to distinguish parity of petitioner viz-a-viz co-accused so far as grant of bail is concerned.

5. Without commenting upon the merits of the case, considering that petitioner is in custody since 22nd August, 2018 and on the basis of parity of petitioner with co-accused, bail is granted to the petitioner on furnishing surety bonds to the satisfaction of the Chief Judicial Magistrate/Duty Magistrate concerned.

6. The petition is allowed.

7. It is clarified that the observations made hereinabove shall not be construed as an expression of opinion on the merits of the case.

8. Since the main case has been decided, the pending application, if any is rendered infructuous.

29th August, 2022

Parveen Sharma

**(AVNEESH JHINGAN)
JUDGE**

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