

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

CRM-M-27389-2022
Reserved On: 12.10.2022
Date of Decision: 17.10.2022

Vishwajeet @ Monu

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE HARNARESH SINGH GILL

Present: Mr. R.S. Rai, Senior Advocate, with
Mr. Karan Pathak, Advocate, for the petitioner.

Mr. Gagandeep Singh Chhina, AAG, Haryana.

HARNARESH SINGH GILL, J.

Through the present second petition (the earlier one having been dismissed by a Coordinate Bench of this Court vide order dated 25.08.2021), the petitioner seeks grant of regular bail in case bearing FIR No. 131 dated 16.10.2019 registered under Sections 302 and 201 read with Section 34 IPC, at Police Station, GRP, Faridabad, District GRP Ambala Cantt.

Learned Senior Counsel appearing for the petitioner would submit that it was a blind murder case; that the entire case is based on circumstantial evidence; that the petitioner was not named in the FIR, but indicted after 15 days of the alleged occurrence and that the confessional statement of the petitioner recorded in the police custody, is not admissible in law; that witness-Tusli Ram, made a statement under Section 161 Cr.P.C. on 30.10.2019, that he had last seen the deceased in the

company of two boys, but he did not state that the said two boys were the petitioner and his co-accused; that even otherwise, the said statement was recorded after 15 days of the alleged occurrence, which creates a dent in the very case of the prosecution and that Tulsi Ram, being a close relative of the complainant, his said statement cannot be made basis for indicting the petitioner in the present case. The learned Senior Counsel further states that that the prosecution had failed to conduct any Test Identification Parade, in order to ascertain the identity of the accused, including the petitioner. He further submits that the petitioner has been in custody since 30.10.2019; that the trial would take a long time to conclude and that putting the petitioner behind the bars, would serve no purpose.

It is further submitted that though PW5-Tulsi Ram had identified the petitioner and co-accused in the Court, yet the said statement, is very much an improvement and the witness had every chance to do so, as prior to the said identification in the Court, as stated above, the prosecution made no effort to get the identity of the accused established.

On the other hand, the learned State counsel, vehemently opposes the prayer for bail and contends that as on the basis of confessional statements made by the petitioner and co-accused, the weapons of offence, were recovered, therefore, under Section 27 of the Evidence Act, their statements are very much admissible in evidence. It is further submitted that during investigation, the police had collected the call details

between the deceased and the accused (Annexure R.15 with the status report), which clearly show that the accused, including the petitioner, had been in constant and close contact of the deceased.

It is further submitted that PW5-Tulsi Ram, while appearing in the witness box, has duly identified the petitioner and co-accused, as the ones, who had been last seen by him with the deceased and thus, the contention of the learned Senior Counsel for the petitioner that no Test Identification Parade was conducted to ascertain the identity of the petitioner, falls flat.

I have heard the learned counsel for the parties.

The petitioner was though not named in the FIR, yet on the basis of the investigation conducted by the police, he along with co-accused Sonu @ David, was apprehended by the Police and while in police custody, they made confessional statements regarding their complicity in the crime and had also got recovered the weapons of offence i.e. a 'Knife' and 'Sua' besides the blood stained clothes of the accused-petitioner. PW5-Tulsi Ram, while examined in the Court supported the case of the prosecution and deposed that he had last seen the deceased in the company of the accused present in the Court.

The argument of the learned Senior Counsel for the petitioner that as now two material witnesses i.e. complainant-Ramesh Chand and Tulsi Ram, have already been examined, the petitioner deserves the concession of bail, lacks merit considering that 16 injuries were found to have been caused on

the person of the deceased with the sharp edged weapons, got recovered at the instance of the petitioner and co-accused. Besides, the motive behind the crime was stated in the confessional statements itself.

Still further PW5-Tulsi Ram in his cross-examination before the trial Court, has deposed that after the arrest of the petitioner and co-accused Sonu @ David, the police called him to the police and showed him the said two boys (accused). Thus, it could not be said that the identity of the petitioner and co-accused was established for the first time in the Court itself.

Keeping in view the gravity of the offence, mere long incarceration is no ground to release the petitioner on bail.

Consequently, the present petition is dismissed.

17.10.2022
ds

(HARNARESH SINGH GILL)
JUDGE

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