

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

CRM-M-32331-2021 (O&M)

Date of Decision: 10.03.2022

Vikram Chauhan

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present: Mr. Manish Soni, Advocate, for the petitioner.

Mr. Rajiv Sidhu, DAG, Haryana.

Mr. Kshitij Sharma, Advocate, for the complainant.

(proceedings conducted through video conferencing)

GURVINDER SINGH GILL, J. (Oral)

CRM-8735-2022

For the reasons mentioned in the application, the same is allowed and the depositions of the prosecution witnesses annexed with the application are taken on record as Annexures P-10 to P-12, subject to all just exceptions.

CRM-M-32331-2021 (O&M)

1. The petitioner seeks grant of regular bail in respect of a case registered against him vide FIR No.461 dated 28.10.2018 at Police Station DLF, Phase-I, Gurugram, District Gurugram, under Sections 120-B/302/34 IPC.
2. The FIR was lodged at the instance of Hari Krishan, father of the deceased Deepika (daughter of complainant). The complainant alleged that his daughter Deepika was married to Vikram Chauhan in February, 2012 and had been blessed with two children. She was residing with her

husband in Flat No.804, 8th floor, Tower 3, Valley View Estate, Gurugram. The complainant's son Himanshu Ahuja is also residing in the same 'Society'. On 27.10.2018, he received a telephonic call from his son asking him to reach their 'Society' as Deepika had fallen from 8th floor and had been taken to hospital by some other members of the 'Society'. The complainant reached hospital at about 3:30 A.M. on 28.10.2018 where he was informed by his son that complainant's daughter Deepika had expired. Upon enquiry, the complainant came to know that there had been a dispute between Deepika and her husband Vikram since the last about 6 months on account of an illicit relationship of Vikram with a lady named Shefali Tiwari, who was also resident of the same 'Society'. It is alleged that the said Shefali, who was married, was residing with her mother and her relationship with Vikram was also known to other members of the 'Society'. The complainant has further alleged therein that he had come to know that at the time of occurrence, Vikram and his elder brother Amit were present at the scene of crime and had been seen by another resident of the 'Society' namely Ms. Leena. It is, thus, alleged that Vikram and Shefali had conspired together to eliminate complainant's daughter Deepika. It is further the case of prosecution that during the course of investigation, when statements of the neighbours i.e. Ms. Leena and her husband Surender were recorded under Section 161 Cr.P.C., they stated that they have witnessed the occurrence when Vikram (petitioner) and his elder brother Amit were allegedly throwing the deceased from the balcony.

3. Learned counsel for the petitioner has submitted that it is a case where the complainant had never witnessed the alleged incident of throwing

down his daughter (deceased) from the balcony of 8th floor where she was residing with her husband in a flat, as the complainant was residing in Chandigarh, whereas the incident had taken place in Gurugram. Learned counsel has further submitted that as per the prosecution and as per version unfolded by the complainant i.e. PW-1 Hari Krishan in the witness-box, it was Ms. Leena and her husband, who were residing in the neighbourhood, who had seen the accused throwing down the deceased from the balcony, but when Ms. Leena as well as her husband Surender Bhatt were examined during the proceedings of trial, none of them have supported the case of the prosecution and both of them were declared hostile. Learned counsel, in this context, has drawn the attention of this Court to the statements of said two witnesses annexed as Annexures P-11 & P-12 respectively.

4. On the other hand, learned State counsel while opposing the petition has submitted that it is a case where the petitioner has been able to win over the eye-witnesses and that it is well-settled that even in case of a hostile witness, the Court can sift the grain out of chaff particularly when there is some corroborative evidence. Learned State counsel has submitted that in the present case the police during the course of investigation had come across e-mails sent by co-accused Shefali to the petitioner to the effect that the deceased be eliminated by throwing her down from the flat, which would clearly establish the complicity of the accused/petitioner. Learned State counsel has, however, informed that the petitioner as on date has been behind bars since the last more than 3 years and that he is not involved in any other case. It has also been informed that as on date only 3 PWs have been examined.

5. I have considered rival submissions addressed before this Court.
6. It is not disputed that the complainant had never witnessed the incident in question and his knowledge is mainly based on what he had come to know from residents of the locality, when he went to Gurugram from Chandigarh after receiving news about falling down of his daughter. The incident was stated to have been witnessed by Ms. Leena and her husband, who are residing in the neighbourhood in an adjoining tower in the 'Society'. However, when both the said witnesses were examined during the proceedings of trial, both of them have not supported the case of the prosecution and have not stated a word as regards they having seen the accused throwing down the deceased from the balcony. In these circumstances and bearing in mind that the petitioner has been behind bars for a substantial period of more than 3 year and the petitioner is not even stated to be involved in any other case, further detention of the petitioner will not serve any useful purpose as the conclusion of trial will take some time. The petition, as such, is accepted and the petitioner is ordered to be released on regular bail on his furnishing bail bonds/surety bonds to the satisfaction of learned trial Court/Chief Judicial Magistrate/Duty Magistrate concerned.
7. It is, however, made clear that none of the observations made above shall be taken to be an expression on merits of the main case.

10.03.2022

Vimal

(GURVINDER SINGH GILL)

JUDGE

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