

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH**CRM-M-32949-2022 (O & M)****Date of decision: 14.11.2022**

Mahesh @ Rony

.... Petitioner

V/s

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present: Mr. Rajat Srivastav, Advocate
and Mr. Mohd. Jarjish, Advocate,
for the petitioner.

Mr. Vikrant Pamboo, DAG, Haryana.

JASJIT SINGH BEDI, J. (Oral)

The prayer in the present petition under Section 439 Cr.P.C. is for the grant of regular bail to the petitioner in case FIR No. 183 dated 28.06.2020 under Sections 302, 460, 392 and 34 IPC (Sections 460, 201 IPC added later on) registered at Police Station Sector 9-A, District Gurugram.

2. The brief facts of the case are that on 28.06.2020, a telephonic information was received by the investigating agency that one man and a woman had been murdered and their bodies were lying tied up at A-670, Surya Vihar, Gurugram. Based on this information, SHO, Police Station Sector 9-A, Gurugram and other officials reached the spot where the landlord, namely, Aakash Sharma submitted a complaint that he was the owner of a plot/house measuring 155 Sq.Yds. At Surya Vihar, Gurugram and had rented the same to one Guddu Singh for the last one year. The said Guddu Singh had been residing with his wife, namely, Renu in the said

house and was running an office by the name of Guddu Tours and Travels. On 28.06.2020, his (complainant's) neighbour-Ravinder Kumar gave an information to him that the main gate of his house was lying open and a smell was coming from his house. He (complainant) informed the Police Control Room and reached at the house alongwith his brother where he found two dead bodies of Guddu and his wife-Renu lying in two different rooms. Their hands and legs had been tied and they had been brutally murdered. Based on the above-said complaint, the FIR, in question, was registered.

3. During the course of investigation, the post-mortem of the deceased was conducted and as per the report, the cause of death was "shock and hemorrhage with head injury following ante mortem sharp weapon injury along with blunt force impact injuries described above and its consequences were sufficient to cause death in normal course of nature".

During the course of further investigation conducted by SI Surender Singh, the petitioner-Mahesh @ Rony and his co-accused Ashok @ Titu were arrested on 25.08.2020. Their disclosure statements were recorded and Section 460 IPC was added in the present case. During their police remand, they got demarcated the place of occurrence and the petitioner-Mahesh @ Rony got recovered the passbook of Bank of Baroda and an amount of Rs.1,000/- and his co-accused Ashok @ Titu got recovered the knife used in the occurrence.

The production warrants of accused Aayush @ Mayank and Vishal, who were already in custody in FIR No.264 of 2020 under Section 302, 201 IPC registered at Police Station Sector 10, Gurugram, were obtained and they were, thereafter, arrested in the present case. They also

disclosure statements, Section 201 IPC was added in the present case. A sum of Rs.2,000/- each was recovered from them. The accused-Aayush got recovered a Swift Dzire car bearing No.HR-55-AG-2186 used in the crime.

The challan against the petitioner-Mahesh @ Rony, co-accused Ashok @ Titu, Aayush @ Mayank and Vishal was submitted on 20.11.2020. During the course of Trial, the petitioner was declared a juvenile by the Court on 07.01.2021 as he was said to have been born on 10.09.2002.

Based on the said fact, the challan against the petitioner-Mahesh @ Rony as a juvenile was submitted in the Court of Principal Magistrate, Juvenile Justice Board, Gurugram on 23.02.2021. Thereafter, on 06.04.2021, the Principal Magistrate, Juvenile Justice Board, Gurugram transferred the matter under Section 18(3) of the Juvenile Justice Care and Protection of Children Act, 2015 while holding that he (petitioner herein) ought to be tried as an adult.

4. The learned counsel for the petitioner contends that there is no evidence inculcating the petitioner in the commission of the offence. The prosecution witness of the demarcation of the place of occurrence by the accused has not supported the prosecution case. The recovery shown from the petitioner of Rs.1000/- and the passbook of Bank of Baroda has been foisted upon him to falsely implicate him in this case. While placing reliance upon an order dated 20.10.2022 passed by the Hon'ble Supreme Court of India in the case of '*Master Bholu (Imaginary Name) versus Central Bureau of Investigation and another, (in Special Leave to Appeal (Crl.) No.8691/2021*)', he contends that whether the grant of bail to the petitioner shall be governed by Section 12 of the Juvenile Justice (Care and Protection of Children) Act, 2015 or under Section 439 Cr.P.C. was being examined by

concession of bail. He contends that even otherwise only 07 out of 35 prosecution witnesses had been examined so far and as the petitioner is in custody since 25.08.2020 and the Trial was not likely to be concluded anytime soon, he ought to be granted the concession of bail.

5. The learned counsel for the State, on the other hand, contends that it is a double-murder case. The accused acted in a brutal manner. They tied the hands and feet of the deceased and caused injuries to them leading to their deaths. Though the petitioner was a juvenile, but once an order had been passed declaring that he was to be tried as an adult, grant of bail would be governed by Section 439 Cr.P.C., though, he admits that the said issue is pending before the Hon'ble Apex Court. He also submits that the petitioner has criminal antecedents and is involved in a similar FIR bearing No.231 of 2020 under Sections 379-B, 34 IPC registered at Police Station Bilaspur, Gurugram. He, thus, contends that the petitioner does not deserve the concession of bail.

6. I have heard the learned counsel for both the parties at length.

7. During investigation, the petitioner and his co-accused were arrested and various recoveries, as enumerated above, were effected from them. In the order passed in *Master Bholu' case (supra)*, the accused therein had been in custody for almost 05 years and the Trial had not even begun in the said case. It was in those circumstances that the Hon'ble Supreme Court had granted interim bail to the accused therein.

The facts of the present case, however, are different. Not only is the petitioner a habitual offender, but it is also a case of double-murder committed with extreme brutality. Further, as many as 07 witnesses out of 35 prosecution witnesses have been examined and the Trial has made

8. In view of the above, I find no merit in the present petition. The same is, therefore, dismissed. However, the Trial Court is directed to expedite the Trial and conclude the same preferably within a period of 06 months from the next date fixed before it.

(JASJIT SINGH BEDI)
JUDGE

November 14, 2022
sukhpreet

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No