

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CRM-M-39971-2021 (O&M)

Date of decision : 07.02.2022

Mandeep alias Marshal

... Petitioner

Versus

State of Haryana

... Respondent

CORAM: HON'BLE MR.JUSTICE VIKAS BAHL

Present: Mr.Vikas Bishnoi, Advocate
for the petitioner.

Mr.Manish Dadwal, AAG, Haryana.

Ms.Anjali Sheoran, Advocate
for the complainant.

(Through Video Conferencing)

VIKAS BAHL, J.(ORAL)

CRM-3578-2022

This is an application under Section 482 Cr.P.C. for placing on
record statement of PW-2 Rajender son of Maman Ram as Annexure P-4.

Allowed as prayed for. Annexure P-4 is taken on record subject
to all just exceptions.

CRM-M-39971-2021

This is a first petition under Section 439 Cr.P.C. for grant of
regular bail to the petitioner in FIR no.295 dated 07.09.2020 registered
under Sections 302, 34 IPC and Section 3(2)(v) of the Scheduled Castes and
Scheduled Tribes (Prevention of Atrocities), Act 1989 (Amendment 2015)
at Police Station Hansi Sadar, District Hansi.

The FIR in the present case has been registered on the statement of Neelam wife of Rambhagat @ Lahlu, who had stated that she was a housewife and her marriage was solemnised with Rambhagat @ Lahlu around 18 years back and on 05.09.2020 at about 7:00 AM, Naresh son of Satbir had taken her husband to work in the fields and when husband of the complainant did not return till evening, then she called on the mobile phone of Naresh many times and then Naresh told the complainant that her husband got down on the way but he did not return and on 06.09.2020 at about 2 O'clock, Naresh and his wife went to the house of the complainant and informed her that clothes and slippers of the husband of the complainant were lying near pond and thereafter, the complainant along with Naresh reached there and the dead body of husband of the complainant was found and no shirt was found in clothes worn by Rambhagat and the complainant had alleged that she had suspicion that Naresh, had got the husband of the complainant killed and had put him in the pond.

Learned counsel for the petitioner has submitted that in the present case, FIR had been registered on 07.09.2020 after a delay of two days from the date when the husband of the complainant allegedly went missing and after a delay of one day from the date when the dead body of husband of the complainant was found. It has further been submitted that the petitioner has not been named in the FIR and the petitioner has been implicated only on the basis of extra judicial confession of the petitioner before Rajender son of Maman Ram. It has further been submitted that said Rajender son of Maman Ram has been examined as prosecution witness no.2 and in his examination-in-chief, he has not supported the case of the prosecution and has stated that his signatures were taken on blank papers. It

has further been argued that thus, the only link, which could implicate the petitioner, is not established in the present case. It has further been argued that the petitioner has been in custody since 05.10.2020 and no recovery has been effected from the petitioner and there are 18 prosecution witnesses out of which only two witnesses have been examined and thus, the trial is likely to take time moreso, in view of the present pandemic and the petitioner is not involved in any other case and thus, deserves the concession of regular bail.

Learned State counsel, on the other hand, has opposed the petition for regular bail and has submitted that in the present case, the petitioner had himself made an extra judicial confession before Rajender son of Maman Ram and had stated that he, along with Naresh, had committed the murder of husband of the complainant.

This Court has heard learned counsel for the parties and has perused the record.

It is not in dispute that the complainant had not named the present petitioner in the FIR, even co-accused Naresh was made an accused on the basis of suspicion. There was a delay of two days in the registration of the FIR from the date on which the husband of the complainant had gone missing and a delay of one day from the date on which the dead body of the husband of the complainant was found. It is further not in dispute that the present petitioner has been implicated on the basis of extra judicial confession which the petitioner had allegedly made before Rajender Singh son of Maman Ram. The said Rajender Singh son of Maman has been examined as witness no.2 and he has not supported the case of the prosecution and has rather stated that police had made him sign on blank

papers. The petitioner is stated to be in custody since 05.10.2020 and no recovery has been effected from the petitioner and there are 18 prosecution witnesses out of which 16 witnesses are yet to be examined and thus, the trial is likely to take time moreso, in view of the present pandemic and the petitioner is stated to be not involved in any other case.

Keeping in view the above said facts and circumstances, the present petition is allowed and the petitioner is ordered to be released on bail on his furnishing bail / surety bonds to the satisfaction of the concerned trial Court/ Duty Magistrate and subject to him not being required in any other case.

However, it is made clear that in case, any act is done by the petitioner to threaten or influence the complainant or any of the witnesses, then it would be open to the State to move an application for cancellation of bail granted to the petitioner

Nothing stated above shall be construed as a final expression of opinion on the merits of the case and the trial would proceed independently of the observations made in the present case which are only for the purpose of adjudicating the present bail petition.

(VIKAS BAHL)
JUDGE

February 07, 2022
Davinder Kumar

Whether speaking / reasoned
Whether reportable

Yes/No
Yes/No