

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

228

**CRM-M-46185-2021 (O&M)**

**Date of Decision: 25.08.2022**

Kashish

...Petitioner

Versus

State of Haryana

...Respondent

**CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL**

Present: Mr. Aman Pal, Advocate, for the petitioner.

Mr. Rajiv Sidhu, DAG, Haryana,  
assisted by ASI Dharmender.

Mr. Yashveer Kharb, Advocate, for the complainant.

**GURVINDER SINGH GILL, J. (Oral)**

1. The petitioner has approached this Court seeking grant of regular bail in respect of a case registered against him vide FIR No.0037 dated 08.01.2020 at Police Station Panipat City, District Panipat, under Section 365 IPC (Sections 201, 364-A, 34, 302 IPC added later on).
2. The FIR was lodged at the instance of Yogesh (father of the deceased), wherein it has been alleged that on 07.01.2020 at about 7.00 PM, his son Kunal (deceased) left home with his friends in order to play. Later, when they tried to contact him on his mobile phone, the same was found to be switched off. Though the complainant and others tried to search for Kunal, but he could not be found. The complainant suspected that his son Kunal had been kidnapped.

3. It is further the case of the prosecution that on the same day a ransom call was received by the complainant from the mobile number of Kunal himself. Thereafter, the complainant got his supplementary statement recorded on 08.01.2020, wherein he disclosed that on the night intervening 07/08.01.2020 at 12.00 AM, he had received a telephonic call from mobile No.9518030094 belonging to his son and that the caller was not his son, but was some other person and the said caller demanded an amount of Rs.5 lakhs for the purpose of releasing his son Kunal. The complainant alleged that later when the audio recording in respect of the said call was heard by all the family members, it was opined that the voice of the said caller was of Raman, who was a friend of complainant's nephew Sahil @ Goli.
4. Learned counsel for the petitioner has submitted that it is a case of circumstantial evidence, wherein the petitioner is nowhere named in the FIR though some suspicion has been raised against co-accused Raman. Learned counsel has submitted that while co-accused Sahil has expired, the main accused Raman is still in custody. It has further been submitted that since the petitioner has been behind bars for a substantial period of more than 2½ years, he deserves to be released on bail.
5. Opposing the petition, learned State counsel assisted by learned counsel representing the complainant has informed that though it is a case based on circumstantial evidence, but the investigating agency has sent the voice sample of co-accused Raman for its comparison with the telephonic conversation in respect of telephone call, which the complainant had

received on the night intervening 07/08.01.2020 and which holds the key to the murder in question. Learned State counsel has further pointed out that Raman in his disclosure statement has categorically named the petitioner as the co-accused and has stated in unambiguous terms that the petitioner alongwith other co-accused had committed the murder of the deceased Kunal by strangulating him. Learned counsel for the complainant has submitted that since it was at the instance of co-accused Raman and the petitioner that the dead body of the deceased was recovered, the complicity of the petitioner is clearly evident. Learned State counsel has, however, informed that the petitioner as on date has been behind bars since the last more than 2½ years and that as on date 11 PWs out of cited 19 PWs have been examined. It has also been informed that the petitioner is not involved in any other case.

6. I have considered rival submissions addressed before this Court.
7. It is not in dispute that it is a case of blind murder based mainly based on circumstantial evidence. The evidence against the petitioner is mainly in the shape of disclosure statement of the co-accused, the veracity and admissibility of which would be debatable. Though the investigating agency is also banking upon a telephonic conversation, which had taken place between the complainant and a caller, which according to the complainant was suspected to be of Raman, but the identity of the said caller is yet to be finally established inasmuch as the report of the FSL is still awaited. In any case, the telephonic conversation or the report of the FSL would only establish the identity of the co-accused Raman and has

- nothing to do with the present petitioner. The petitioner otherwise has been behind bars for a substantial period of more than 2½ years. Conclusion of trial will still take time inasmuch as only 11 PWs out of cited 19 PWs have been examined till date. The petitioner otherwise has a clean record and is not stated to be involved in any other case. 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.
8. 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.
9. It is further directed that the petitioner shall not extend any kind of threat or intimidate the complainant or any other member of his family.

**25.08.2022**

Vimal

**(GURVINDER SINGH GILL)  
JUDGE**Whether speaking/reasoned: **Yes/No**Whether reportable: **Yes/No**