

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

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CRM-M-49132-2022 (O&M)

Decided on :15.12.2022

Mukhtiar Singh

. . . Petitioner

Versus

State of Haryana

. . . Respondent

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

PRESENT: Mr. Saurabh Sharma, Advocate
for the petitioner.

Mr. Praveen Bhadu, AAG, Haryana.

VIKAS BAHL, J. (Oral)

This is a first petition under Section 439 Cr.P.C. for grant of regular bail to the petitioner in FIR No. 180 dated 30.03.2020 registered under Section 346 IPC (Sections 302, 201, 120-B IPC added later on) at Police Station Sadar Pehowa, District Kurukshetra.

Learned counsel for the petitioner has submitted that in the present case, the FIR was registered by Om Parkash under Section 346 IPC on 30.03.2020 with respect to the fact that his son Shiv Charan had gone missing. After the dead body of the said Shiv Charan was found, the statement of the said Om Parkash under Section 175 Cr.P.C. was registered on 31.03.2020 and in the said statement, no suspicion had been alleged by him against any person. It is further submitted that the postmortem report in the present case was prepared on 01.04.2020 and the offence under Section 302 IPC was added on 13.10.2020 after much delay. It is contended that the petitioner was implicated on the basis of

the supplementary statement of Om Parkash, complainant, recorded on 29.10.2020, after a period of more than 6 months of the dead body having been found. It is further contended that even a perusal of the said statement of Om Parkash would show that he had suspicion that the murder of his son had been committed by the present petitioner i.e. Mukhtiar Singh and Pinki. It is argued that the material against Mukhtiar Singh is the said supplementary statement and a disclosure statement of his co-accused, whereas no recovery has been effected from the present petitioner. It is further argued that the co-accused of the petitioners i.e. Kulwinder Singh and Pinki have been granted interim bail by the coordinate Bench of this Court vide orders dated 04.03.2022 and 14.03.2022, respectively, and the said interim bail is still continuing. It is submitted that the petitioner had applied for anticipatory bail and had withdrawn the same on 24.08.2022 and had stated that the petitioner would surrender within a period of 10 days from the said date and had thereafter surrendered on 30.08.2022. It is further submitted that the challan in the present case has already been presented and there are as many as 25 prosecution witnesses, out of whom only 7 witnesses have been examined and thus, the trial is likely to take time and the petitioner is not involved in any other case. It is argued that now the complainant has been examined as PW-6 and he has not supported the case of the prosecution and has specifically stated that he had not mentioned the name of the present petitioner and the other accused in the statement before the police and that the petitioner is

not responsible for the murder of his son. To the same effect, is the statement of PW-4 Radhe Shyam, who is the brother of the deceased.

Learned State counsel, on the other hand, has opposed the present petition for regular bail and has submitted that there are phone call details between the petitioner and Kulwinder Singh and phone calls between Kulwinder Singh and the deceased and the chain of circumstances is complete qua the petitioner and the other accused persons. The other facts stated by learned counsel for the petitioner, however, have not been denied by learned State counsel.

This Court has heard learned counsel for the parties and has gone through the paper-book.

The FIR in the present case had been registered on the statement of Om Parkash on 30.03.2020 under section 346 IPC on the plea that the son of the complainant had gone missing. On 31.03.2020, the statement of the said Om Parkash was registered under Section 175 Cr.P.C. when the dead body of the deceased was found and a perusal of the statement Annexure P-2 would show that the complainant had not raised suspicion against any person. The petitioner has been implicated in the present case on the basis of the statement of Om Parkash dated 29.10.2020 after a period of more than 6 months of the dead body having been found i.e. after much delay and even as per the said statement, the said Om Parkash had stated that he had suspicion that the present petitioner and Pinki had committed the murder of his son. The petitioner had applied for anticipatory bail and vide order dated

24.08.2022, he had withdrawn the same and had stated that he would surrender before the trial Court within a period of 10 days from the date of the said order and the petitioner had surrendered on 30.08.2022 in pursuance of the above order. After the arrest of the petitioner, complainant Om Parkash was re-examined as PW-6 and a perusal of the statement of said PW-6 would show that he has not supported the case of the prosecution and has specifically stated that he had not mentioned the name of the present petitioner and the other co-accused to the police and that the accused persons, including the present petitioner, who were present in the Court on that day, were not responsible for the murder of his son. To similar effect is the statement of PW-4 Radhe Shyam, who has not supported the case of the prosecution. The said statements have been handed over by the learned counsel for the petitioner during the course of arguments and are taken on record as Mark-A and Mark-B, respectively. There are no call details between the petitioner and the deceased, even as per the case of the prosecution.

Keeping in view the abovesaid facts and circumstances, the present petition is allowed and the petitioner is ordered to be released on regular bail on his furnishing bail/surety bonds to the satisfaction of the trial Court/Duty Magistrate, 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 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.

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

Pending miscellaneous applications, if any, stand disposed of with the abovesaid order.

15.12.2022

Mehak

(VIKAS BAHL)
JUDGE

Whether reasoned/speaking?	Yes/No
Whether reportable?	Yes/No