

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

Sr. No.212

CRM-M-53109-2021 (O&M)
Reserved on 07.03.2022

Date of Decision: March 10th, 2022

Aasif

.... Petitioner

Versus

State of Haryana

... Respondent

CORAM: HON'BLE MR. JUSTICE SANT PARKASH

Present: Ms. Sharmila Sharma, Advocate
for the petitioner.

Mr. Amit Aggarwal, DAG, Haryana.

None for the complainant.

SANT PARKASH, J.

*[The aforesaid presence is being recorded through video conferencing
since the proceedings are being conducted in virtual court]*

The instant petition has been filed under Section 439 Cr.P.C.
seeking grant of regular bail in case FIR No.68 dated 29.04.2018, registered
under Section 302, 346 and 120-B of IPC at Police Station Rozka Meo,
District Mewat at Nuh.

The allegation against the petitioner is that he along with his
co-accused persons committed murder of complainant's brother namely
Sameem as he was against the marriage of Sameem with his sister Rukmina.
As per prosecution version, on 21.04.2018, Sameem got missing. On
23.04.2018 at 1.57 a.m., the petitioner (brother of Rukmina) called on the

mobile phone of the complainant and told that his brother Sameem has been restrained by them. The petitioner gave the phone to Sameem Ahmed, who told the complainant that he was restrained by the petitioner and there is danger to his life and after that, the phone got disconnected. The complainant made several calls to Sameem's mobile no. but the latter did not pick the phone. On 23.04.2018, the complainant party went to police station Tauru and on being directed by the said police station, they went to police station Bahin but no proceedings were initiated at either of the police station. It was only on 28.04.2018 that a photograph of a dead body was published in the newspaper and complainant recognized the same and went to police station Rojka Meo but the body was got cremated before the complainant party could reach there. However, they identified the slippers, clothes etc. of deceased Sameem.

It is contended that the petitioner has been falsely implicated in the present case as the entire case is based on circumstantial evidence and there is no eye witness of the alleged incident. When the photo of an unclaimed dead body was given in the newspaper, the complainant or his family did not claim the same to be that of Sameem (complainant's brother) and they reached the police station only after the cremation of the said dead body. They claimed the body to be that of complainant's brother Sameem only on the basis of identification of clothes and slippers. Moreover, since the cremation was already done by local police, bones were sent to FSL Madhuban for DNA test, but the said bones were found unfit for comparison. It is further contended that during investigation, it was found that even the location of the petitioner was far away from the place of

alleged occurrence. Learned counsel also contended that the investigation in the present case is complete and challan has already been filed. Moreover, three co-accused of the petitioner have already been granted concession of regular bail by the Court below, whereas the present petitioner is in custody since 14.06.2018.

On the other hand, learned State counsel opposed the prayer made on behalf of the petitioner on the ground of having committed serious crime of murder. He submits that although the bone sent for DNA test was found unfit for comparison, but the blood stained stone sent for examination was matched with the DNA of the blood sample of the deceased's mother. He further submits that during the course of investigation, the accused persons were found to have conversation with each other. The present petitioner was arrested on 14.06.2018 and suffered disclosure statement. In pursuance thereof, mobile phones of the accused persons were got recovered and they got demarcated the place where deceased Sameem was called on the first floor and the place where they caught him again when the deceased tried to run. Learned counsel further contends that although the challan has been presented and charges have also been framed, significant witnesses are yet to be examined and if, at this stage, the petitioner is granted the concession of bail, he may hinder the process of fair investigation.

After having heard learned counsel for the parties and going through the statement of the complainant placed on the record in pursuance of the order dated 01.02.2022 passed by this Court, this Court is of the considered opinion that the present petitioner can not claim parity with the

other co-accused persons, keeping in view his role and attribution in the commission of the crime. From the material placed on the file, it is evidently crystal clear that the petitioner was the main culprit, on account of whose disclosure statement, mobile phones of all the accused persons were recovered and the present petitioner was in constant touch with other co-accused persons, conspiring against the deceased. It was the petitioner only through whom the complainant got last talk to his deceased brother, meaning thereby that the petitioner actively participated in the commission of murder of the deceased.

The statement of the complainant namely Sakharup Khan has been placed on record by way of CRM No.7830 of 2022 and if it is glanced through, it would be revealed that the complainant has supported the prosecution story in toto and has attributed specific role to the present petitioner.

Learned counsel for the petitioner has vehemently argued that keeping in view the custody period of the present petitioner, he be enlarged on bail.

There is hardly any substance in the submission made by learned counsel for the petitioner, keeping in view the nature, gravity, mode and manner in which the murder was committed. There is every apprehension that if the petitioner is enlarged on bail, he may influence the material witnesses, which are yet to be examined.

In view of the above, this Court does not find any ground to grant concession of regular bail to the petitioner and therefore, his request for the same is hereby declined.

Accordingly, the present petition stands dismissed.

(SANT PARKASH)
JUDGE

March 10th, 2022
Maninder

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