

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-9636-2023
Date of Decision:-27.04.2023

DEVENDER KUMAR

... Petitioner

Versus

STATE OF HARYANA

... Respondent

-.-

CORAM: HON'BLE MR. JUSTICE KARAMJIT SINGH

-.-

Present:- Mr. Shivam Kaushik, Advocate
for the petitioner.

Ms. Harpreet Kaur, AAG, Haryana.

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KARAMJIT SINGH, J. (Oral)

1. Prayer is for grant of regular bail in case having FIR No.45 dated 22.02.2018 registered under Sections 302, 201, 120-B, 317 IPC at Police Station Naraingarh, District Ambala.
2. As per the allegations recorded in the FIR, dead body of one unknown female was found lying by complainant-Lakhwinder Singh nearby the road going from Majri to Ujjal Majri. During investigation the petitioner was arrested by the police on 18.3.2018.
3. The counsel for the petitioner *inter alia* contends that the FIR in this case was registered against unknown persons and during investigation

the petitioner was arrested but no weapon was recovered from his possession. That the identification of the deceased as wife of co-accused Ajay is based on photographs and no report of DNA examination is there on the record. The counsel for the petitioner further submits that the material witnesses are already examined and the father of deceased while appearing in the witness box as PW-1 has not stated anything against the petitioner in his deposition and the copy of the same is Annexure P-3. The counsel for the petitioner further submits that the petitioner who is having no criminal history is incarcerated for last more than 5 years and 1 month and that it will take time for the trial to conclude. So prayer is made that the petitioner be released on bail.

4. The instant petition is resisted by the State counsel, who submits that the deceased was wife of co-accused Ajay who is real brother of the petitioner. The State counsel further submits that during investigation one mobile phone and a car were recovered at the instance of the petitioner. The State counsel further submits that mobile tower locations of the mobile phones used by the accused persons were collected and they clearly establish the case of prosecution. However, the State counsel has not disputed the fact that the petitioner is in custody for the last 5 years and 1 months and that all the material witnesses are examined during the trial.
5. I have considered the submissions made by counsel for the parties.
6. The FIR in this case registered against unknown persons for committing murder of a lady, who is stated to be wife of co-accused

Ajay, who is real brother of the petitioner. The petitioner is in custody for the last more than 5 years. As per the counsel for the petitioner the identity of the deceased was established by prosecution on the basis of photographs in absence of DNA report. During investigation no weapon is stated to have been recovered at the instance of the petitioner and as per prosecution, the petitioner got effected recovery of mobile phone and a car. The material witnesses are stated to have been examined. So there is no apprehension that if released on bail, the petitioner is going to pressurize them. As per Annexure P-3, the father of the deceased while appearing in the witness-box has not named the petitioner as one of the assailants. The documents relating to mobile tower locations of mobile phones of the accused are subject matter of trial. Admittedly, it will take time for the trial to conclude, so no purpose is going to be served by prolonging the judicial custody of the petitioner for indefinite period.

7. Thus, without commenting on the merits of the case, the petition is allowed and the petitioner is ordered to be released on bail subject to his furnishing bail and surety bonds to the satisfaction of the trial Court/CJM/Duty Magistrate concerned.

27.04.2023
Gaurav Sorot

(KARAMJIT SINGH)
JUDGE

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