

HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

226-CRM-M-11840-2023

Date of Decision: 15.03.2023

Jahrul @ Chhotu @ Jahrul MIA

... Petitioner

VS.

STATE OF HARYANA

... Respondent

CORAM: HON'BLE MR.JUSTICE SANDEEP MOUDGIL

Present: Mr. Vimal Kumar Gupta, Advocate and
Mr. Rajesh Sachdeva, Advocate for the petitioner

Mr. Amit Aggarwal, DAG Haryana

Sandeep Moudgil, J. (Oral)

The petitioner seeks regular bail in case FIR No.267 dated 28.03.2021 under Sections 302 IPC, registered at Police Station Sadar Gurugram, District Gurugram.

At the threshold, it is to be noticed that earlier a petition filed by the petitioner was dismissed as withdrawn vide order dated 24.11.2022 (Annexure P15) when this Court was not convinced with the submissions made by counsel for the petitioner. However, today, again on merits of the case, counsel for the petitioner has made an attempt to argue that the mobile phone allegedly shown to be used by the petitioner does not belong to him which is in the name of one Rajinder. He also disputes the recovery of stone stating that the same was not effected on 06.04.2021 but on 08.04.2021 when the petitioner was taken out for a two-hour judicial remand. It is also the contention of counsel for the petitioner that the trial is being delayed at the hands of the prosecution, wherein from the last one year, no PW has been examined. Learned counsel further asserts, on behalf of the petitioner, that the

material witnesses have already been examined and neither any recovery is to be effected from the petitioner nor is there any independent witness to support the version of prosecution, as well. He laid much stress on the fact that after the examination of the material witnesses, the only formal witness and the one who identified the body, remain to be called for deposition, in trial proceedings.

On the other hand, learned State counsel has argued that it is a case of last seen and the fact that of having left the company of the petitioner, has not been denied, at all, so far. He submits that the petitioner has failed to draw the attention this Court with any evidence or statement of the witnesses, so far examined, to show that the deceased was not seen going out with the petitioner, on that very date. The RFSL report dated 28.03.2021 has also been seen which suggests that that stone pieces (Exhibit-3) were stained with blood stains with a specific finding that the said blood is of B-positive group, matching with the blood group of the deceased. As far as the contention whether the mobile phone, the tower location of which has been tracked, belongs to the petitioner or not, has been disputed by counsel for the petitioner, which is a matter of trial to be adjudicated after examination of evidence.

Considering the submissions and factual background made hereinabove, I am of the firm opinion that, *prima facie*, the offence under Section 302 IPC is made out against the petitioner, to be tried, wherein sufficient material evidence is available on record, as is evident from the documents annexed with the petition.

In view of the reasons discussed above, this petition is dismissed being devoid of merit.

Nothing stated herein shall be taken as an observation on merits and the trial court shall proceed with the case on the merits of the case.

15.03.2023
V.Vishal

1. Whether speaking/reasoned?
2. Whether reportable?

(Sandeep Moudgil)
Judge

Yes/No
Yes/No

V VISHAL
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I attest to the accuracy and
integrity of this document