

2023:PHHC:072787

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

CRM-M-15219 of 2023

Date of Decision: May 18, 2023

Sandeep ...Petitioner
Versus
State of Haryana ...Respondent

CORAM: HON'BLE MR. JUSTICE DEEPAK GUPTA

Present:- Mr. Kamal Choudhary, Advocate
for the petitioner.

Mr. Randhir Singh, Addl. AG, Haryana.

DEEPAK GUPTA, J.(Oral)

Prayer in this petition filed under Section 439 Cr.P.C is for grant of regular bail in case FIR No.351 dated 30.05.2021 registered at Polcie Station Surajkund, Faridabad under Section 346 IPC (Sections 302, 201 and 404 IPC added later on) at Police Station Surajkund, Faridabad.

One Ravi went missing on 28.05.2021. His wife Rubi lodged the present FIR on 30.05.2021 stating therein that her husband was depressed and left home without informing and she had the suspicion that some unknown person had detained her husband. On 04.06.2021, a dead body was found in de-composed condition but it could not be identified. On 15.09.2021, untraced report was filed. However, on 26.09.2022, Smt. Usha Devi, mother of Ravi, moved an application alleging that Rubi wife of Ravi was having illicit relations with Sandeep (petitioner) and that she (Usha) suspected that petitioner had committed murder of Ravi. Petitioner was joined in the investigation on the same

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day i.e. 26.09.2022. He suffered disclosure statement as per which he had consumed liquor with Ravi on the night of 26.05.2021, then he had brought him in his vehicle to Pali MVN Road, where he threw Ravi in the lake. It was further stated by him that he along with co-accused Sachin had later on taken the dead body of Ravi from lake and dumped the same in the bushes near Sector 65. As per CDR of the mobile number of the petitioner, his location was found in the noon of 27.05.2021 at Gurugram Pali road near the place of occurrence.

During further investigation, the DNA sample of Smt. Usha Devi was taken on 29.11.2022 for carrying out the DNA testing with a piece of bone taken by the doctor from the dead body recovered on 04.06.2021. Although as per the status report filed by the Police, DNA report is awaited but learned State Counsel on instructions from the Investigating Officer submitted that DNA matched with Smt. Usha Devi and thus dead body was of Ravi.

It is submitted by the petitioner that he has been falsely implicated having no nexus with the crime. Although he was in touch with the complainant Rubi but did not have any relations with her. In fact deceased was working as a driver with him and it is only because of his work that he was in contact with the complainant. He further contends that call detail record relied upon by the prosecution are of the mobile number of the petitioner and that of the husband of the complainant and not that of the complainant Rubi. Learned counsel further submits that case of the prosecution is dependant upon the disclosure statement, with no recovery and that disclosure statement having been made under pressure of the Police, is not admissible in the

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eyes of law. Learned State Counsel has opposed the bail petition by
pointing towards the gravity of the offence.

Having considered submissions of both the sides, this Court finds that the petitioner deserve to be allowed bail. Admittedly, Ravi had gone missing on 28.05.2021 and it is more than one year and three months that it was alleged by her mother that petitioner was having illicit relations with wife of deceased Ravi. Prosecution case rests on the disclosure statement, which prima-facie is inadmissible in the absence of recovery of any object or discovery of any new fact. It is contention of learned counsel for the petitioner that it defies logic that Ravi shall be first thrown in the lake and then the dead body will be taken out from the lake and dumped in the bushes.

Having noticed the afore-said facts and circumstances, but without commenting anything further on the merits of the case, the petitioner, who is in custody since 26.09.2022 as per custody certificate with no criminal antecedents, is hereby directed to be released on bail on his furnishing requisite personal bail bonds and surety bonds to the satisfaction of learned Chief Judicial Magistrate/ Duty Magistrate concerned.

Disposed of.

May 18, 2023
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(DEEPAK GUPTA)
JUDGE

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