

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

CRM-M-17046-2022

Date of Decision: 25.1.2023

Rekha

....Petitioner

VERSUS

State of Haryana

....Respondent

CORAM:- HON'BLE MR. JUSTICE KARAMJIT SINGH

Present: Mr. Lalit Kumar Narang, Advocate
for the petitioner.

Mr. Vishal Kashyap, DAG, Haryana

KARAMJIT SINGH, J.

Prayer in the present petition under Section 439 of Code of Criminal Procedure is for grant of regular bail to the petitioner in case FIR No.503 dated 26.12.2020 registered for the offences punishable under Sections 201, 302, 34 IPC (Sections 120-B, 203 IPC added later on) at Police Station Sadar Rohtak, District Rohtak.

This case was registered on the complaint of Rekha (petitioner) wife of Mahender Singh alleging therein that on 19.12.2020, her husband left the house but thereafter, he did not return and even his mobile phone was found to be switched off. Then on 23.12.2020, Rekha (petitioner) received an information that the dead body of her husband and one another *Sadhu* (Monk) was found in a well in the area of Sanghi road. Rekha (petitioner) also informed the police that few days back, one Chand son of Sarupa came to her house and told her that her husband Mahender should not come to meet aforesaid *Sadhu* in Balmiki Ashram. So, she suspected that her husband was killed by aforesaid Chand and Raj Kunwara along

with their companions. Consequently, FIR was registered in this case. During the investigation, suspected persons joined the investigation but nothing was found against them. Then on 29.12.2020, Joginder nephew of deceased Mahender reported to the police that Rekha (petitioner) wife of deceased Mahender suffered extra judicial confession before him regarding her involvement in the murder of her husband Mahender and she also disclosed about the involvement of one Manjit. Then the petitioner and one Manjit were named as accused in the present case and both of them were arrested.

Counsel for the petitioner *inter alia* contends that the petitioner is falsely implicated in the present case and he is in custody for the last more than 2 years and during the investigation, no incriminating article was recovered at the instance of the petitioner and that the entire case is based on circumstantial evidence and complainant-Joginder who is a witness to extra judicial confession suffered by the petitioner and Rajbir (neighbour of co-accused) are already examined during the trial. He further submits that it will take time for the trial to conclude. So, prayer is made that the petitioner be released on regular bail.

Present petition is opposed by the State counsel and on instructions from ASI Pawan, State counsel has contended that the petitioner is facing trial in a double murder case as dead bodies of Mahender and one *Sadhu* (Monk) were recovered from the well, after Mahender had gone missing. However, the State counsel has not disputed the fact that the petitioner is in custody for the last more than 2 years and that the entire case is based on circumstantial evidence and already complainant-Joginder before whom the petitioner suffered extra judicial confession and Rajbir

who had lastly seen co-accused Manjit in the company of the deceased, have testified in this case. He further submits that one mobile phone was recovered from the present petitioner and that it will take time for the trial to conclude as only 6 witnesses are examined till date on behalf of the prosecution out of total 36 witnesses.

I have considered the submissions made by the counsel for the parties.

Admittedly, the petitioner is in custody for the last 2 years and the case is based on circumstantial evidence and the trial is going on and already witnesses of extra judicial confession and last seen evidence are examined by the trial Court. During the investigation, except one mobile phone, no incriminating article was recovered from the possession of the petitioner. Till date, only 6 prosecution witnesses are examined and 30 other remains to be examined. Involvement of the present petitioner in the murder of Mahender and *Sadhu* (Monk) will be unfolded only after recording of entire circumstantial evidence during the trial. It will take considerable time for conclusion of the trial. So, no useful purpose is going to be served by keeping the petitioner in custody for any further period.

In view of the above, without commenting on the merits of the case, the present petition is allowed and the petitioner is ordered to be released on bail subject to his furnishing bail bonds/surety bonds to the satisfaction of the trial Court/Chief Judicial Magistrate/Duty Magistrate concerned.

(KARAMJIT SINGH)
JUDGE

January 25, 2023
Paritosh Kumar