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

**CRM-M-26704-2022
Date of Decision: 04.08.2023**

Gurmeet

..... Petitioner

Versus

State of Haryana

..... Respondent

CORAM: HON'BLE MR. JUSTICE HARSH BUNGER

Present: Mr. Vikram Singh, Advocate
for the petitioner.

Mr. Ram Kumar Singla, DAG, Haryana.

HARSH BUNGER J.

1. Petitioner (Gurmeet) has filed the present petition under Section 439 of the Code of Criminal Procedure seeking grant of regular bail in case bearing FIR No.81 dated 05.03.2021, under Sections 120-B, 201, 302, 323, 365, 380, 457 and 506 of the Indian Penal Code, registered at Police Station Sector 29, Panipat, District Panipat.

2. Status report by way of affidavit dated 24.03.2023 of Mr. Mayank Mishra, I.P.S., Assistant Superintendent of Police, Panipat, has been filed on behalf of State of Haryana, which is already on record.

3. Briefly, the prosecution case was launched on the complaint moved by Simran and Preeti, who stated that their brother-in-law, namely Rakesh, had kidnaped their brother Deepak on 01.03.2021 and subsequently,

kidnapped their mother, namely Roshni, on 03.03.2021. It was alleged that

Rakesh along with his accomplices had committed theft in their house in the night of 03.03.2021 and stolen gold *Mangal Sutra*, gold *Tika*, gold ring, ear rings, three pairs of silver *Pajeb*, two pairs of silver *karre* and a sum of Rs.1.60 Lacs. It appears that on the said complaint, a formal FIR was registered under Sections 365 and 379 of the Indian Penal Code, however subsequently on the basis of statement of victim Deepak recorded under Section 164 of the Code of Criminal Procedure, offence under Section 379 of the Indian Penal Code was deleted and offences under Sections 457, 380, 323, 506, 302, 201 and 120-B of the Indian Penal Code were added.

4. The petitioner was arrested in this case on 08.03.2021. Thereafter, he filed an application for grant of regular bail, however, the same was dismissed by the Court of Additional Sessions Judge, Panipat vide order dated 07.06.2022 (Annexure P-1). Accordingly, the instant petition has been filed before this Court.

5. Learned counsel for the petitioner submits that the petitioner is innocent and he has been falsely implicated in FIR No.81 dated 05.03.2021. It is submitted that Rakesh is the brother-in-law of complainant, who had purchased some land in the name of his brother-in-law (Deepak), who sold the same, however, did not pay the money to Rakesh; and it was their family dispute and petitioner has no concern with the same. Learned counsel submits that the petitioner has been implicated in this case with some oblique motive and neither the petitioner was a beneficiary nor he was having any transactions with the complainant or Rakesh. Learned counsel for the petitioner states that mother of the complainant, namely Roshni, had died due to drowning in the village pond and the petitioner does not have any concern with her death, as well. Learned counsel states that nothing is to be recovered from the petitioner.

6. Learned counsel for the petitioner further submits that the petitioner had applied for grant of regular bail before the Court of Additional Sessions Judge, Panipat, which was wrongly declined vide order dated 07.06.2022 (Annexure P-1). It is stated that the petitioner was arrested in this case on 08.03.2021; investigation of case is complete, challan stands submitted on 12.04.2021 and even charges have been framed on 10.08.2021, hence, conclusion of trial will take some time and no useful purpose would be served with further incarceration of the petitioner. Learned counsel for the petitioner submits that the petitioner is ready to abide by all the conditions as may be imposed by this Court or by the trial Court, accordingly prayer for grant of regular bail is made.

7. Per contra, learned State counsel opposes the plea of petitioner for grant of regular bail on the ground of seriousness and gravity of the offences. Learned State counsel submits that in this case, Roshni (mother of complainant) was murdered. It is submitted that the petitioner along with co-accused Rakesh were arrested and interrogated by the police, whereby they voluntarily suffered their disclosure statements admitting the manner in which they had committed the murder of Roshni Devi and caused injuries to the victim Deepak. While referring to the status report, learned State counsel has submitted that victim Deepak was produced before the Court of Judicial Magistrate Ist Class, Panipat on 06.03.2021, whereby he voluntarily recorded his statement under Section 164 of the Code of Criminal Procedure that *“he was kidnapped by Rakesh, Ravi and Gurmeet (petitioner). They along with a driver had beaten him in a plot. On 03.03.2021, Rakesh and Gurmeet had kidnapped his mother Roshni also and had beaten her in the farm of village Kurlan. They had also committed theft in his house. When they came back to the farm, they found his mother was*

lying dead and thus, accused Rakesh and Gurmeet threatened him not to disclose about the incident to anybody and thereafter, they threw the dead body of his mother in village pond”.

8. Learned State counsel further submits that there is sufficient evidence on case file to show the complicity of petitioner in the commission of crime, which is serious in nature. Learned State counsel submits that the petitioner has committed a heinous offence and thus he is not entitled for grant of regular bail.

9. I have heard learned counsel for the parties and perused the paper book and status report.

10. In the present case, the allegations levelled in the FIR was that Rakesh along with his accomplices abducted Deepak on 01.03.2021 and subsequently on 03.03.2021, said Rakesh had abducted complainant's mother (Roshni) and also stolen jewellery and cash from complainant's house.

11. A perusal of status report would reveal that complainant's brother Deepak and their mother Roshni were kept in captivity by Rakesh and others and were given beatings, on account of which, Roshni (mother of complainant) expired and thereafter, she was thrown in the village pond. Statement of Deepak has also been recorded under Section 164 of the Code of Criminal Procedure before the Magistrate, wherein he has specifically stated that he was kidnapped by Rakesh, Ravi and Gurmeet (petitioner) and they had given beatings to him. It is further stated by Deepak that on 03.03.2021, Rakesh and Gurmeet (petitioner) had kidnapped his mother Roshni as well and had beaten her in the farm of Village Kurlan and also committed theft in their house; and when they returned to the farm, they found Roshni to be dead, whereby Rakesh and petitioner threatened

Deepak not to disclose the incident to anybody and thereafter they threw the dead body of Roshni in the village pond. The Post-Mortem Report of deceased Roshni Devi reveals the following injuries on her body:-

Sr. No.	Injuries	Marked	Injury No.
1.	Contusion, reddish present over right side of face over zygomatic eminence, 3 x 2 cm.	No	1
2.	Contusion, reddish present over outer aspect of left deltoid area, 7 x 5 cm.	No	2
3.	Multiple contusion, reddish present over back of chest and abdomen all over, 6 in number, 10 x 3 cm. to 24 x 11 cm. with overlying abrasions at places, 3 x 1 cm. to 9 x 1 cm. in number.	No	3
4.	Contusion, reddish present over left buttock and outer aspect of left thigh, 31 x 18 cm. with overlying abrasions, 2 x 1 cm. to 6 x 1 cm., 3 in number.	No	4
5.	Contusion, reddish, 5 x 3 cm. over left left in upper one third.	No	5
6.	Contusion, reddish, 15 x 8 cm. present over left lateral malleolous and feet.	No	6
7.	Swelling 6 x 3 cm. present over left sole, 8 cm. above the heel, on incision effusion of blood present.	No	7
8.	Contusion, reddish, 9 x 4 cm. present over medial aspect of right feet and medial malleolous.	No	8
9.	Lacerated wound, infiltration of blood in tissues present, 4x0.2 cm. x 1 cm. present over medial aspect of right heel at end, obliquely placed.	No	9

12. Although the petitioner was arrested on 08.03.2021 and even charges have been framed in this case, however, in my considered opinion, merely long incarceration cannot be a ground to extend the concession of

bail to the petitioner. In *Kalyan Chandra Sarkar v. Rajesh Ranjan @ Pappu Yadav, 2004(2) RCR (Criminal) 254*, Hon'ble Apex Court held as under:

“The condition laid down under Section 437(1)(i) is sine qua non for granting bail even under Section 439 of the Code. In the impugned order it is noticed that the High Court has given the period of incarceration already undergone by the accused and the unlikelihood of trial concluding in the near future as grounds sufficient to enlarge the accused on bail, in spite of the fact that the accused stands charged of offences punishable with life imprisonment or even death penalty. In such cases, in our opinion, the mere fact that the accused has undergone certain period of incarceration (three years in this case) by itself would not entitle the accused to be enlarged on bail, nor the fact that the trial is not likely to be concluded, in the near future either by itself or coupled with the period of incarceration would be sufficient for enlarging the appellant on bail when the gravity of the offence alleged is severe and there are allegations of tampering with the witnesses by the accused during the period he was on bail.”

13. Furthermore, when the accused is facing serious charges, he may develop temptation to jump the bail. The apprehension expressed by the State counsel that if released on bail, there is every likelihood of the petitioner trying to tamper with the prosecution evidence by giving threats and inducement to the prosecution witnesses and absconding even to prolong the trial, cannot be brushed aside lightly.

14. Hence, keeping in view the gravity and nature of the offence, I do not deem it fit to extend the concession of regular bail to the petitioner. Accordingly, the present petition is dismissed.

15. Nothing expressed hereinabove shall be construed to be an observation on merits of the case and the facts and circumstances recorded

above are only for consideration of the prayer for bail at this stage.

16. All pending application(s), if any, shall also stand closed.

04.08.2023
Apurva

(HARSH BUNGER)
JUDGE

- 1. Whether speaking/reasoned : Yes/No
- 2. Whether reportable : Yes/No