

CRM-M-32178-2020

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-32178-2020
Reserved on: 18.04.2023
Pronounced on: 15.05.2023

Amit Yadav @ Sonu Yadav ...Petitioner

Versus

Central Bureau of Investigation ...Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. Ivan Singh Khosa, Advocate for the petitioner.

Mr. Rajeev Anand, Standing counsel for CBI.

Mr. Sarfraj Hussain, Advocate for the complainant.

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
RCNo.9(S)/2016/C BI/SC-1/New Delhi	05.12.2016	Special Crime- 1/CBI/New Delhi	120-B IPC read with Sections 302, 307, 376-D, 376(2)(i), 323, 325, 459, 460 IPC and Section 6 of POCSO Act 2012

1. The petitioner, incarcerated upon his arrest in the FIR captioned above, on the allegations that he conspiring with other co accused actively participated in a barbarous double murder, rape and robbery, had come up before this Court under Section 439 of Code of Criminal Procedure, 1973 (CrPC) seeking bail.
2. In paragraph 10 of the bail petition, the accused declares that he has no criminal antecedents.
3. Petitioner’s contention is that the pre-trial incarceration would cause an irreversible injustice to the petitioner and family.
4. State opposes the bail.

REASONING:

5. The petitioner seeks bail on the following grounds, mentioned in para 5 of the bail petition, which read as follows:

“5. That briefly stated, the present bail of the Petitioner is sought on following grounds:

- a. Petitioner was never arrested during investigation and the guidelines for refusing bail in such a case by Criminal Trial Court as given in Court on its own Motion v. State through CBI, 2006(4) R.C.R.(Criminal) 206 were not followed by the Ld. CBI Court, Panchkula in the present case.
- b. No fresh evidence has come against Petitioner by way of supplementary challan (Annexure P/3) in which the Petitioner was made an accused.
- c. Petitioner had joined the investigation and there was no occasion where CBI or any complainant moved any application for arrest of the Petitioner averring that he is interfering in the investigation. Hence, mandate of the Hon'ble Supreme Court in Dataram Singh v. State of Uttar Pradesh SLP (CRL) 151 of 2018 decided on 06.02.2018 is applicable in the present case.
- d. Petitioner's name was taken by just one family member of the victims, i.e. Parvej and that too after 70 days and besides that, no other evidence or recovery is there against Petitioner in the 3 challans presented in the present case. It must be noted that veracity of testimony of Parvej itself has been scrutinised by the CBI and they have cast heavy doubts over the same in their 1st Supplementary Challan (Annexure P/2) by relying on expert evidence to contradict it.
- e. Actual set of accused (members of Bawaria/Axel Gang) have already been captured and have confessed too. FSL has established their crime along with their disclosures. Admittedly, petitioner was only associated to be with the initial 4 accused against whom no evidence was found by CBI."

6. The CBI's response (Annexure P-3) at paragraph 16.11, is relevant and is being reproduced hereunder:

"(16.11) in view of the above facts and circumstances, investigation has established that accused persons namely Tejpal, Ravinder @ Fauji and Amit Yadav Sonu Yadav in criminal conspiracy with each other and also with other already charge sheeted accused, with common intention, have committed murder of Ibrahim and Rashidan, committed the offence of attempt to murder/ injuries/ grievous injuries to Jafrudin, his wife Ayesha, Parvej, Naved, Victim "S", committed gang rape on Victim "S" and Victim "A" (minor girl) and by house trespass at night looted their ornaments from person and cash amount of Rs.1,50,000/- from their house in the intervening night of 24/25 August, 2016 at village Dingerheri Distt. Nuh, Haryana, thereby committed the offences of double murder, gang rape, attempt to murder, causing grievous injuries/injuries and lurking house trespass."

7. The incident pertains to 25.08.2016, the occasion of Eid. Victim A had gone to her parents' house at Village Dingerhadi, District Nuh. On that day, at the mid-night, when Victim A was sleeping with her kids and her niece aged 14 years in a room and other family members were sleeping outside, she heard commotion and cries and when she and her niece peeped outside, they saw a number of persons were thrashing their uncle, aunt and other family members. These 4-5 persons with *chunnis* tied her uncle Jafar @ JAfru and slashed him. In the meantime, one of their cousin Naved, who was bleeding, came running towards their room. Those 4-5 persons were following him, and one was carrying spade. When these persons reached their room, they started eve

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teasing and started fondling the breast of the complainant and her niece. One of them remarked that let's have these girls first. On hearing this, complainant tried to sneak away from the room, but a stout man caught her son by his legs and asked her to come back otherwise he will chop the head of her son. Then she came back, and the stout man asked her to remove the clothes. To save life, the complainant removed her clothes, and they brutally raped her. Subsequently, they took her back to the room and asked her and younger niece aged 14 years, to take out belongings and jewellery. On this, they handed them their jewellery and belongings. After that, they took turns raping the complainant and her young niece. After causing injuries to all family members and committing rape, they went away. When the complainant came outside the room, she saw that her aunt Alisha was lying on the bed in an injured condition and her both hands were tied. In the meantime, one of the injured was able to make himself free and inform the co-villagers who took them to hospital. Subsequently, the FIR was registered.

8. Pursuant to the investigation conducted by the Haryana Police, four accused, namely, Sandeep, Amarjeet, Karamjeet and Rahul Verma were arrested, who were also identified by the victim girls in Test Identification Parade. After that, State of Haryana transferred the investigation to CBI on 23.11.2016. CBI through its report on 24.1.2018 charge sheeted another 4 accused who are stated to be members of Bawaria Group (Axle gang). During further investigation under Section 173(8) CrPC, CBI found involvement of other accused namely Amit Yadav @ Sonu Yadav-present petitioner, Tej Pal and Ravinder @ Fauji. The investigator found the role of the present petitioner for committing robbery, murder of Ibrahim and Rashidan, causing injuries to Jafu, his wife Ayesha, Parvej, Naved and raping victim S aged 20 years and victim A aged 14 years.

9. There is sufficient evidence pointing towards petitioner's involvement in the gruesome and horrible act, done with abominable cruelty. Acting with sheer disregard to life and dignity, the accused butchered, injured members of a family and committed rape with females, one of whom was a child aged 14, adjacent to the bodies of their kin lying in a pool of blood. The oral testimony of Prosecutrix A (rape victim) and injured member (Parvej) explicitly connects the present petitioner to the occurrence. Further, evidence collected in the investigation by CBI at this stage is not such that his complicity and collusion can be negated at the face of it. The petitioner, therefore, does not make out a case for bail. Any further discussions are likely to prejudice the petitioner; this court refrains from doing so.

10. Any observation made hereinabove is neither an expression of opinion on the merits of the case nor shall the trial Court advert to these comments.

The petition is dismissed. However, considering the seriousness of matter, this court

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requests the concerned trial court to make all endeavors to conclude the trial 31stOctober, 2023, of which the prosecution evidence be completed by 31st August, 2023, and the remaining time to provide an opportunity to the accused to lead defence evidence, if so desired. It is clarified that this order speeding-up the trial is subject to the condition that neither the petitioner shall seek any adjournment nor try to use any tactics to delay the trial. If they do so, this order of expediting the trial shall stand automatically recalled by resorting to Section 362, read with Section 482 Code of Criminal Procedure, 1973, without any further reference to this court. All pending applications, if any, stand disposed of.

(ANOOP CHITKARA)
JUDGE

15.05.2023
anju rani

Whether speaking/reasoned:	Yes
Whether reportable:	No.