

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-40713-2022
Date of Decision: May 05, 2023

Parsu Ram alias Paras

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE DEEPAK GUPTA

Present:- Mr. Sukesh Kumar Jindal, Advocate for the petitioner.

Mr. Randhir Singh, Addl. A.G., Haryana.

DEEPAK GUPTA, J.

Prayer in this petition filed under Section 439 Cr.P.C. is for grant of regular bail in case FIR No.732 dated 24.12.2019, registered at Police Station Quilla Panipat, under Sections 148, 149, 201, 302, 328 and 396 of IPC.

2. Mohammad Aslam (deceased) S/o Mufsil was deputed as DBO in Bandhan Bank, DSC Panipat-2, Model Town, Panipat, where Nimai Sarkar was the manager. On 23.12.2019, said Mohammad Aslam went for collecting loan installments at Babail Road, Bharat Nagar and as per inquiry, he had collected an amount of ₹91,855/-. He was also having HHD machine, mobile phone and other papers. He went missing and his mobile phone was found switched off. On 24.12.2019, present FIR was lodged under Section 346 IPC on the complaint of Nimai Sarkar regarding missing of Mohammad Aslam. On 26.12.2019, dead body of an unknown person was found in *nallah* of village Raja Kheri, which was

kept in Civil Hospital, Panipat. On 27.12.2019, the dead body was identified to be that of Mohammad Aslam. Mohd. Mufsil, father of deceased then made a complaint (Annexure P-2), stating therein that his son had gone to the house of Sunita W/o Vinod to collect the loan installments and thereafter, he went missing and on making inquiries by him at personal level along with the bank officials, they were sure that Sunita in conspiracy with her son Vijay, Paras (*petitioner herein*) S/o Sat Narain, Gaurav S/o Surjit and Arvind S/o Rambir had killed him (Mohammad Aslam) and looted the collected loan installments of ₹91,855/-, HHD machine, mobile phone and other papers.

3. (a) Investigation was carried out. Call details record of deceased was obtained. Postmortem on the dead body of Mohammad Aslam was got conducted and as per post-mortem report, the cause of death was disclosed to be combined effect of head injury, asphyxia secondary to constriction of neck structures by a ligature & burning. Arvind, Gaurav and Vijay were arrested on 27.12.2019 and they suffered disclosure statements.

(b) As per disclosure statement of co-accused Arvind, he, Vijay and Parsu Ram @ Paras (petitioner) were friends. Parsu Ram @ Paras was residing on a rented room adjacent to the room of Sunita at Bharat Nagar. Sunita had taken loan. Bank worker Mohammad Aslam (deceased) used to collect installments of loan. Sunita told her son Vijay and Parsu Ram @ Paras regarding collection of huge amount of installments of loan by Aslam and that they made a plan to commit his murder and loot

money from him. It was stated further that on 23.12.2019, as per plan, Sunita made a telephonic call to Mohammad Aslam and called him to her room. Parsu Ram @ Paras (petitioner) administered sleeping medicines, making him unconscious. Then Arvind, Parsu Ram @ Paras and Vijay took Mohammad Aslam to the room of Parsu Ram @ Paras, where a stone was hit on the head of Mohammad Aslam and he was also strangled with scarf by Parsu Ram @ Paras supplied by Sunita. Vijay also strangled him with electric wire. They snatched ₹91,855/-, mobile phone, machine and other documents. On the three-wheeler of one Arif, dead body was taken in a bag and thrown in the nallah. The dead body was also put on fire to destroy the identity. He also disclosed about the distribution of money and other articles amongst them. Based on the disclosure statement, recoveries were got effected from them.

(c) Sunita was arrested on 27.12.2019, who also suffered a disclosure statement disclosing the manner, in which she remained involved in the crime in conspiracy with the petitioner and others. Petitioner Parsu Ram @ Paras was arrested on 31.12.2019, who also suffered disclosure statement on the same lines and apart from demarcating the place of crime, he got effected recovery of ₹15,000/-, three-wheeler; and documents of the deceased Mohammad Aslam.

(d) After completion of investigation, final report under Section 173 Cr.P.C. was filed to prosecute petitioner Parsu Ram @ Paras, besides Sunita, Vijay, Gaurav and Arvind. Charges were framed on 25.02.2021. As per police report, out of 29 witnesses cited by the prosecution, 8 have

already been examined, one has been given up and case is now fixed for 02.05.2023 for prosecution evidence.

4. It is contended by learned counsel for the petitioner that initially missing report was lodged by the bank manager. After recovery of the dead body, statement was made by the father of the deceased raising suspicion on the petitioner and others on the basis of the inquiry conducted by the bank people. Learned counsel contends that entire case is based upon circumstantial evidence. There is no last seen evidence. Learned counsel has pointed out towards FSL report to contend that no common poison was detected in the viscera ruling out any intoxication of the deceased as is mentioned in the alleged disclosure statement. Further attention is drawn towards another report of FSL, as per which no petrol, kerosene, diesel or residues were detected on the partially burnt small pieces of clothes along with wet ashes and soil found near the dead body and so, prosecution case falls flat qua the disclosure statement to the effect that dead body was burnt with petrol. Learned counsel further contends that recovery of cash amount and some documents of deceased is shown from the petitioner. No independent witness was joined at the time of recovery. Cash amount cannot be connected with the allegedly looted amount from the deceased in the absence of any identification and as far as the documents of the deceased are concerned, said recovery is doubtful because nobody will keep such documents after committing the crime, as said documents were of no use to the petitioner. Learned counsel submits further that petitioner is in custody since 31.12.2019, i.e.

more than 3 years and 4 months. Only 8 witnesses out of 29 witnesses have been examined so far and thus, the trial is likely to take long time to conclude and so, considering all these circumstances, the petitioner be allowed bail.

5. Learned State counsel opposed the bail application by pointing out towards the nature of crime and role of the petitioner as emerged during his own disclosure statement and other circumstantial evidence connected with the crime.

6. Considered submissions of both the sides and the various aspects pointed out by the counsel of the petitioner as noted above.

7. The case is admittedly dependent upon circumstantial evidence. There is no last seen evidence. There appears to be force in the contention of learned counsel for the petitioner that it is difficult to comment at this stage the connection of the amount recovered from the petitioner with the looted amount in the absence of any identification mark; and that the documents of the deceased were of no use to the petitioner and so recovery in that regard is doubtful. It is conceded fact that neither the HHD machine nor the mobile phone of the deceased have been recovered during investigation. Out of 29 witnesses cited by the prosecution, only 8 have been examined so far, despite the fact that charges were framed in February, 2021. Petitioner is in custody for the last more than 3 years and 4 months, with no criminal antecedent.

8. Having regard to the aforesaid circumstances but without commenting anything further on the merits of the case, present petition is

allowed. Petitioner is ordered to be released on bail on his furnishing bail bonds and surety bonds to the satisfaction of learned Trial Court/Chief Judicial Magistrate concerned. Nothing expressed in this order shall be taken as opinion of this court while deciding the case on merits.

May 05, 2023
sarita

(DEEPAK GUPTA)
JUDGE

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