

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-44721 of 2023 (O&M)

Reserved on : 29.11.2023

Pronounced on : 04.12.2023

Bharat Dhupad @ Bhupender Dhupar

.....Petitioner

Vs.

State of Haryana

.....Respondent

CORAM: - HON'BLE MR. JUSTICE DEEPAK GUPTA

Present: - Ms. Diepa Singh, Advocate for the petitioner.

Mr. Parveen Kumar Aggarwal, DAG, Haryana.

Mr. Paras Talwar, Advocate for the complainant.

DEEPAK GUPTA, J. (Oral)

By way of this petition filed under Section 439 Cr.P.C., petitioner prays for his release on regular bail in case FIR No.13 dated 14.01.2022 registered at Police Station Sector-40, Gurugram under Section 302 IPC.

2. FIR was lodged on the complaint of Meena Gill wife of deceased Nirbhay Singh. As per the FIR version, on 13.01.2022, complainant had gone for her duty. She returned home at about 07:00 PM and found her husband Nirbhay Singh to be not there. Her daughter-in-law informed her that he (Nirbhay Singh) had gone to drop her brother-in-law Bharat (petitioner), at Metro Station, as his car had broken down. The complainant called her husband on his mobile and he told that he was sitting with Bharat in car. Later on, complainant tried to contact her husband but failed, as the phone was not answered. She called Bharat, who told her that he had left 10 minutes before and Nirbhay will reach home soon. As Nirbhay did not return, complainant again called Bharat and told that she could neither find her husband nor his car. Bharat came and told that car of

Nirbhay had been found. Complainant was taken to her husband's car, wherein Nirbhay was lying in the front seat. Complainant along with Bharat and her daughter-in-law Preeti took him to Fortis Hospital, where he was declared brought dead. It was disclosed that there was a blue mark on the neck of her husband, which was likely the result of strangulation causing his death. Complainant suspected that her husband had been killed by Bharat by strangulation.

3. During course of investigation, post mortem examination was got conducted. Scene of crime was inspected. The cloth with which deceased was gagged, was taken into possession. Petitioner was arrested and he got recovered vehicle used in the crime besides the rope used by him to strangle the deceased. It was contended by the petitioner during investigation that he had been induced to murder the deceased by complainant Meena Gill, as she was having relations with one Manoj Sabharwal. Section 120-B IPC was added. CCTC footage from the camera installed at the house of the deceased and also that of the Fortis Hospital were taken into possession apart from the call detail records of the deceased and the complainant. Contention of the petitioner to have been induced on the pretext of money and that the complainant was in relationship with Manoj Sabharwal, was found false. The investigation revealed that petitioner was in communication with complainant Meena Gill and as the deceased came to know about it, he objected to the same. Meena Gill had stopped talking to the petitioner and on account of this grudge, petitioner had killed the deceased. On completion of investigation, final report under Section 173 Cr.P.C was filed. Status report also reveals that out of 22 witnesses cited by the prosecution, 14 have already been examined.

4. It is contended by learned counsel that the petitioner has been

falsely implicated and that as per the testimony of the complainant, during the night of 13.01.2022, she did not have any suspicion regarding the involvement of the petitioner in the murder of her husband. Learned counsel further contends that case is based upon circumstantial evidence; that there is no motive for the petitioner to cause murder of the deceased; and that trial may take time to conclude and so, in all the circumstances, petitioner be granted bail.

5. Strongly opposing the bail petition, learned State Counsel ably supported by counsel for the complainant, pointed out that petitioner was last seen with the deceased and that on 13.01.2022, when complainant had talked to her husband at about 07:00 PM, deceased had told her that he was with the petitioner. Learned State Counsel further pointed out towards the testimony of PW5 Meena (Annexure P.2) in which she clearly stated that she had told the Police that her husband had been taken away by Bharat (petitioner) and so she suspected him for the murder of her husband. Learned State Counsel further submits that most of the prosecution witnesses have already been examined and so, petitioner does not deserve to be granted the benefit of bail having regard to the gravity of the offence.

6. I have considered submissions of both the sides and perused the record.

7. No doubt that case is dependent upon circumstantial evidence but as per the prosecution version, deceased was last seen in the company of the petitioner. Even at 07:00 PM on 13.01.2022, when complainant talked to her husband, she was told that he (deceased) was with petitioner. During her testimony as PW5, complainant clearly stated that as her husband had accompanied the petitioner and so, she suspected the petitioner to be involved in the murder of her husband and, so, contention of learned counsel

for the petitioner to the effect that on the previous day, complainant had not raised such suspicion, is devoid of merit. 14 witnesses out of 22 cited by the prosecution have already been examined and so, trial may not take long time to conclude.

8. Having regard to overall facts and circumstances of the case, the gravity of the offence and the punishment which it may entail, but without commenting anything further on the merits of the case, this Court is not inclined to grant regular bail to the petitioner and so, the present petition is hereby dismissed.

9. At the same time, having regard to the custody period of the petitioner, being more than 01 year 10 months, the trial Court is directed to make sincere efforts to expedite the trial.

December 04, 2023
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(DEEPAK GUPTA)
JUDGE

Whether Speaking/reasoned	Yes/No
Whether Reportable	Yes/No