

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-1339 of 2024 (O&M)
Date of Decision: 03.04.2024

Ajay Kumar
...Petitioner
Versus
State of Haryana
...Respondent

CORAM :HON'BLE MR. JUSTICE KARAMJIT SINGH

Present:- Mr. Partap Singh, Advocate with
Mr. Vikas, Advocate and
Mr. Parth Singh, Advocate
For the petitioner.

Mr. Vishal Kashyap, DAG Haryana.
Mr. Nonish Kumar, Advocate
For the complainant.

KARAMJIT SINGH, J.

1. The present second petition has been filed by the petitioner seeking grant of regular bail in criminal case having FIR No. 495 dated 27.07.2022, registered under Section 346 IPC at Police Station Gharaunda, District Karnal, to which Sections 302, 365, 201 and 120-B IPC were added lateron while Section 346 IPC was deleted.
2. The allegations in nutshell are that complainant Ishwar lodged report on 27.07.2022 with regard to missing of his son Pardeep and resultantly FIR No. 495 dated 27.07.2022 was registered in police station Gharaunda under Section 346 IPC. On 29.07.2022 dead body of Pardeep was recovered from Khera canal. During investigation, Sushma Devi wife of deceased produced a pen drive with regard to conversation of some persons. The call details of the deceased were also collected and police arrested co-accused Rahul who suffered disclosure statement wherein he named petitioner, Vinay, Vishal and Sawan who were also involved in murder of

Pardeep. The petitioner was nominated as accused and arrested by the police.

3. The counsel for the petitioner submits that the initial FIR was registered with regard to missing of Pardeep, against unknown persons. It is further submitted that the petitioner was nominated as accused on the basis of disclosure statement made by co-accused Rahul and that the evidentiary value of the alleged disclosure statement made by co-accused against the petitioner will be tested during trial. It is further submitted that even as per the said disclosure statement of co-accused Rahul (Annexure P-1), it appears that prior to the alleged occurrence the accused persons and deceased consumed liquor and when the accused persons demanded money from Pardeep for purchase of more liquor, he refused to do so and then the accused persons gave slap and fist blows and then Rahul, Vishal, Vinay and Sawan forcibly threw Pardeep in the canal and Rahul kept mobile phone of Pardeep with him and then they left the spot and after two days Rahul removed SIM card from mobile phone of Pardeep and checked it by putting the same in his own mobile phone and thereafter Rahul concealed the mobile phone of Pardeep in area of Hisar. The counsel for the petitioner further submits that even from the perusal of said disclosure statement, it could be easily made out that the present petitioner did not throw Pardeep Kumar in canal and the said act was committed by his co-accused Rahul, Vishal, Vinay and Sawan only. The counsel for the petitioner further submits that it has also come into evidence that when the aforesaid co-accused were throwing Pardeep in canal, petitioner tried to stop them from doing so. The counsel for the petitioner further submits that petitioner is innocent and is in custody for the last more than 01 year and 07 months and is having no

criminal history and during investigation no incriminating article was recovered from his possession. The counsel for the petitioner further submits that in the given circumstances no purpose will be served by keeping the petitioner in custody for any longer period.

4. The State counsel as well as counsel for complainant have resisted the petition and submit that the petitioner actively participated in the occurrence, which resulted in death of Pardeep, who died due to drowning. It is further contended that the presence of the petitioner at the place of occurrence stands established even from the call detail records of concerned mobile phones, which were collected by the police during investigation of the case. It is further submitted that the trial is going on and at this stage of trial, no ground is made out to grant regular bail to the petitioner.

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

6. Initially, FIR in the present case was registered with regard to missing of Pardeep and no one was named in the said FIR. Subsequently, co-accused Rahul was arrested who made disclosure statement wherein he named the petitioner and consequently petitioner was arrested in this case and is in custody for the last more than 01 year and 07 months and is having no criminal antecedents. From the perusal of the disclosure statement (Annexure P-1) made by co-accused Rahul it appears that the petitioner and other accused consumed liquor with Pardeep and thereafter altercation took place between them and the accused persons including petitioner gave slap and fist blows to Pardeep and then co-accused Rahul, Vishal, Vinay and Sawan forcibly lifted Pardeep and threw him in canal and mobile phone of

Pardeep was taken away by co-accused Rahul. In the given circumstances, it

is a matter of evidence as to whether the petitioner conspired with other accused persons and further actively participated in committing murder of Pardeep. It will take considerable time for the trial to conclude. In the given circuIn the given circumstances, no fruitful purpose is going to be served by keeping the petitioner in custody for any longer period.

7. In light 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 of bail bonds and surety bonds to the satisfaction of the trial Court/Chief Judicial Magistrate/Duty Magistrate concerned.

03.04.2024
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(KARAMJIT SINGH)
JUDGE

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