

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

Date of Decision: 16.10.2024

...Respondent

*“ To SHO Police Station Rajendra Park, Gurugram,
Sir I am Ashwani Mishra S/o Ashok Mishra resident of village,
Vishunpura, PO Jagdishpur, District Siwan, Bihar currently lives
in Ghitorni village New Delhi. This morning I received
Information from the family members of my brother-in-law Krishna*



that Krishna Tiwari, his wife Anamika and daughter Surbhi have been murdered at their rented house in Rajendra Park, Gurugram. On this information, I reached my brother-in-law Krishna Tiwari rented house A-80 Rajendra Park, Gurugram and in the room on the second floor of the house, my brother-in-law Krishna Tiwari, his wife Anamika and daughter Surbhi were lying dead. Krishna Tiwari was lying dead on the floor and Anamika and Surbhi were dead lying on the bed and it was found that the police has sent Krishna Tiwari second daughter Vidhi to the hospital for treatment in critical condition. That my brother-in-law Krishna Tiwari and my brother-in-law's wife Anamika along with the family had come to my house on Raksha Bandhan and they had told me that there is a dispute going on with the owner of their house Rai Singh and my brother-in-law Krishna Tiwari, his wife Anamika and his daughter Surbhi had marks of injury on the neck and head with a sharp edged weapon and there is a lot of blood and I have full suspicion that the landlord RaiSingh has committed this crime. This incident have taken place in the early morning of 24.08.2021 and in a room on the first floor of the same house, the landlord's daughter-in-law Sunita W/o Anand is also found dead. There are marks of injuries caused by sharp edged weapons. Other people along with Rai Singh may also be involved in this crime. Strict action should be taken against them and FIR should be registered.....”

3. Learned counsel for the petitioner contends that neither the petitioner has been named in the FIR nor there is any allegations in the FIR, which proves the complicity of the petitioner in the commission of crime in any manner. During the course of investigation, Rai Singh, the main accused had suffered a disclosure statement and even in the disclosure statement, the name of the petitioner was not mentioned by the co-accused. He further contends that even Rai Singh, co-accused was arrested by the police and he committed



suicide on 05.10.2021 in District Jail, Bhondsi. Even in his suicide note, he has specifically mentioned that the crime had been committed by him only and not by any other person. Learned counsel further contends that in fact, the petitioner was not present at the place of occurrence and the prosecution has falsely alleged that the petitioner had conspired with Rai Singh, co-accused in the present case. Even the offence of conspiracy has to be proved like any other independent offence and there is no evidence in the present case to indicate that the petitioner was involved in the crime in any manner. He further contends that the petitioner was arrested in the present case on 05.05.2023 and out of total 75 witnesses, only 16 witnesses have been examined so far. He further contends that in the present case, the complainant as well as Yashasvi, the principle witness have already been examined by the prosecution and there are no chances of tampering with the prosecution evidence, at this stage.

4. On the other hand, learned State counsel assisted by learned counsel for the complainant have vehemently opposed the submissions made by learned counsel for the petitioner on the ground that in the present case, Rai Singh, co-accused had killed four persons and serious allegations have been levelled against the petitioner. However, learned State counsel is not in a position to controvert the submissions made by learned counsel for the petitioner that the petitioner was not present at the place of alleged occurrence. Learned State counsel further contends that one more FIR i.e. FIR No. 22 dated 08.05.2022 under Sections 323, 452, 506 and 34 of IPC, Police Station City Kannina, District Mahendergarh has already been registered against the petitioner.



5. I have heard the learned counsel for the parties and perused the record.

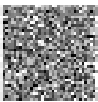
6. In the present case, after commission of the crime, Rai Singh had himself appeared before the police and had confessed his crime. Even he had suffered a disclosure statement, in which the petitioner was not named by him. However, the name of the petitioner appeared only during the course of investigation as a conspirator in the present case. The prosecution is yet to lead evidence before the trial Court with regard to the conspiracy by the petitioner and his father in the present case. Even otherwise, the petitioner is in custody for the last more than one year and no purpose will be served by keeping the petitioner behind bars.

7. 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 bail bonds/surety bonds to the satisfaction of the trial Court/Duty Magistrate/Chief Judicial Magistrate, concerned, subject to the following conditions:-

(i) The petitioner shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case, so as to dissuade him to disclose such facts to the Court or to any other authority.

(ii) The petitioner shall remain present before the Court on the dates fixed for hearing of the case.

(iii) The petitioner shall not absent himself from the Court proceedings except on the prior permission of the Court concerned.



- (iv) *The petitioner shall surrender his passport, if any, (if already not surrendered), and in case he is not holder of the same, he shall swear an affidavit to that effect.*
- (v) *The petitioner shall also file his affidavit before the concerned Court, mentioning his ordinary place of residence and number of mobile phone, which shall be used by him during the pendency of the trial. In case of change of place of residence/mobile number, he shall share the details with the concerned Court/learned Trial Court.*
- (vi) *In case, the petitioner involves in any other criminal activity, during the pendency of the trial, it shall be viewed seriously.*
- (vii) *The concerned Court may insist on two heavy local sureties and may also impose any other condition, in accordance with law, while accepting the bails bonds and surety bonds of the petitioner.*
- (viii) *The petitioner shall report every 1st Monday in English calander month to the concerned SHO till the conclusion of the trial and SHO shall mark his presence by making an entry in the rojnamcha. In case, he does not report on every 1st Monday to the concerned SHO, it shall be viewed seriously and the concession granted to him shall be liable to be cancelled and the State of Haryana shall be at liberty to move an appropriate application in this regard.*

16.10.2024.
hemlata

(N.S.SHEKHAWAT)
JUDGE

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