

Neutral Citation No.2024:PHHC:035904
IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-1398 of 2024
Reserved on:11.03.2024
Pronounced on: 13.03.2024

Mool Chand @ Mul Chand

.....Petitioner

Vs.

State of Haryana

.....Respondent

CORAM:- HON'BLE MR. JUSTICE DEEPAK GUPTA

Present:- Mr. Deepender Singh, Advocate for the petitioner.

Mr. Sumit Jain, Addl. AG, Haryana.

DEEPAK GUPTA, J.

By way of present petition filed under Section 439 Cr.P.C., petitioner prays for his release on regular bail in case FIR No.383 dated 17.09.2022 registered under Section 302 IPC at Police Station Gadpuri, District Palwal (Haryana).

2. Petitioner is alleged to have committed the murder of his father Sher Singh. FIR was lodged on the complaint of Ankit, who is son of the petitioner, and grandson of the deceased. The English translation of the FIR reads as under:-

"To, Chowki Incharge, Dhatir, Palwal.

It is submitted that I Ankit s/o Mool Chand resident of Dhatir, District Palwal is the resident of the above address. I am studying in 12th Class. The name of my grandfather is Sher Singh, who is having three children namely Mool Chand, Manish and Samuntra. My uncle Manish (Chacha) has been taken in adoption by second grand-father Sukhram and he residing with him. My grandfather is having 4 1/2 Bigha land out of which 1 1/2 bigha is in the name of my Bua Samuntra. My father has divorced with my mother and has solemnized second marriage with a lady from Assam. On account of this my grand father used to annoyed with my father. I together with Ajay son of my Bua Samuntra are living with my grandfather. We both used to take care of our grand- father. My grand-

father had got mutated the balance 3 Bigha land in my name. On account of this my father was living separately with the lady from Assam. He used to pressurize my grand-father to transfer the land in his own name. He used to pressurize to me and my grandfather for the same. On account of this my father Mool Chand used to fight with my grand-father, I and Ajay used to save my grand-father. My father used to give beatings to me as well as Ajay. Today on 17.09.2022 I and Ajay had gone to School for studies, my father grandfather and grandmother were at home, at about 10.00 AM when I reached back to home from School I found that my grandfather was having pain in his shoulder and I had gone to Govt. Hospital, Palwal to get medicines to my grand-father and after the checkup of my grandfather's shoulder got the medicines and took him back to the meeting place (Baithak) Nohra of our village and after some time my grandfather went to my grandmother for worship at 2.00 PM, it was around 5.00 PM in the evening that I received a call on my mobile phone from my Aunt (Chachi) Vedwati w/o Manish that something had happened to my grand-father, grandfather is not speaking anything and my Aunt was crying. On receiving this information I and Bua's son Ajay reached home where I met my uncle (Chacha) Manish and my Aunt (Chachi) Vedwati, where we saw my grandfather. My grandfather was lying dead in the Pooja Ram and he had ligature marks around his neck. He was bleeding from his mouth and left hand. I have full suspicion that my father Mool Chand has got the murder done from somebody because there was dispute regarding land between my father and grand-father. Legal action be taken against my father Mool Chand.”

3. During investigation, Police visited the spot of crime and recorded statements of witnesses. Proceedings under Section 174 Cr.P.C were conducted. The post mortem examination of the deceased disclosed the cause of death to be Asphyxia as a result of ante mortem strangulation. The petitioner, who was named in the FIR, was arrested on 23.09.2022 and on interrogation, he suffered disclosure statement, admitting to have committed the crime and got recovered a plastic rope used by him to strangle his father – deceased – Sher Singh. After completion of investigation, final report under Section 173 Cr.P.C has been filed in the Court.

4.1 It is contended by learned counsel for the petitioner that the petitioner

has been falsely implicated simply on the basis of suspicion; that FIR version would indicate that the complainant – Ankit was not present at the time of alleged crime; that case is dependent upon circumstantial evidence; that PW5 Smt. Vedwati is the only material witness of the last seen theory as per the investigation conducted by the Police but said PW5 – Vedwati has not supported the prosecution version during trial. Copy of her testimony is Annexure P.2. PW2 Govind Ram (nephew of the deceased) and PW4 Manish Kumar (son of the deceased) have also not supported the prosecution version. Copies of those statements are Annexures P.3 and P.4. Learned counsel further contends that the testimony of PW6 – Ankit – complainant is of no avail, as he is not the eye witness and implicated the petitioner only on the basis of suspicion.

4.2 Learned counsel also contends that the petitioner is in custody for the last more than 01 year and 05 months; that he has no other criminal case pending against him and that the trial may take time to conclude and so, in all the circumstances, he be allowed bail.

5. Learned State Counsel opposed the bail petition by pointing out towards the gravity of the offence and the fact that the petitioner is the only person named in the FIR to be the assailant of his father; that in his disclosure statement, he has admitted to the crime and got recovered the rope used for strangulating the deceased. However, learned State Counsel concedes the fact that the case is dependent upon the circumstantial evidence and that PW5 – Vedwati is the only witness of the last seen theory but she did not support the prosecution in this regard during trial. By pointing out towards the gravity of offence, learned State Counsel prayed for dismissal of the petition.

6. I have considered the submission of both the sides and perused the

record.

7. The case is admittedly dependent upon circumstantial evidence. A bare perusal of the FIR would reveal that it was lodged by Ankit Kumar on account of suspicion, as petitioner used to ask his father - deceased to transfer three bighas of land in his name, which the deceased had already transferred in the name of the complainant. It is conceded that PW5 – Vedwati is the witness of the last seen theory as per the prosecution case but she did not support the prosecution during trial. Simply because, a rope has been recovered at the instance of the petitioner, cannot be a reason in itself at this stage to conclude that said rope was used for commission of the crime.

8. Petitioner is in custody for the last 01 year 05 months and 17 days, as per the custody certificate placed on record. Out of 19 witnesses cited by the prosecution, only 8 have been examined so far as informed by learned State Counsel and thus, trial is likely to take long time to conclude.

9. Keeping in view all the afore-said facts and circumstances, but without commenting anything on the merits of the case, the present petition is allowed. Petitioner is admitted to bail on his furnishing bail bonds and surety bonds to the satisfaction of learned trial Court/ Duty Magistrate, on usual terms and conditions.

March 13, 2024
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(DEEPAK GUPTA)
JUDGE

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