

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-7192-2024
DECIDED ON: 16.02.2024

RAVINDER

.....PETITIONER

VERSUS

STATE OF HARYANA

.....RESPONDENT

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Mr. Jainainder Saini, Advocate
for the petitioner.

Mr. Gurbir Singh Dhillon, AAG, Haryana.

SANDEEP MOUDGIL, J (ORAL)

1. The jurisdiction of this Court has been invoked under Section 439 Cr.P.C. for grant of regular bail to the petitioner in FIR No.327, dated 17.08.2019, under Sections 346 IPC & 302/201 IPC (added later on), registered at Police Station Rewari City, District Rewari.
2. Learned counsel for the petitioner contends that it is on the basis of circumstantial evidence of last seen theory that the petitioner has been nominated as an accused in the instant FIR, wherein firstly a disclosure statement of the petitioner was recorded on 26.07.2020 in which it was recorded that the petitioner has pushed the deceased Sandeep Kaur in Sidhmukh River and thereafter, again on 30.07.2020, petitioner has got recorded his second disclosure statement with the changed version to the effect that the petitioner has taken the mobile phone of deceased Sandeep Kaur on the pretext of clicking photographs and also got recorded that he has thrown the mobile phone and also thrown her documents and IDs in the river

and thereafter again on 31.07.2020, got recorded another disclosure statement, wherein the petitioner has recorded that he has kept the mobile phone with himself only and in fact there is no such recovery of the mobile phone from the possession of the petitioner and all the disclosure statements got recorded under coercion by the police only to build up the prosecution case, which has been attracted only relying upon tower location alleged to have been obtained by the Investigating Agency.

3. The story of the prosecution is concocted one and an attempt has been made to connect the present petitioner merely on one fact that 14.08.2019 at about 6:45 p.m. when the rear tyre of petitioner's motorcycle bursted near Mannat Hotel subsequently which could not be got repaired or replaced and they were forced to stay at the said hotel and on 15.08.2019, the petitioner left for Agroha at 8:45 p.m. i.e. on 15.08.2019 as per the prosecution case itself. Thereafter, the present petitioner has been implicated in the instant FIR after having recovered the body of Sandeep Kaur from Amar Singh Kanal, District Hanumangarh, Rajasthan. Further recording that the murder of deceased Sandeep Kaur has been committed in the area of Hisar and Bhuna though having no specific information is there qua that.

4. It is on the basis of such prosecution story, the petitioner is being put to trial, who has already suffered incarceration for a period of 03 years, 06 months and 11 days, as is evident from custody certificate produced by the State counsel, which is taken on record.

5. Learned State counsel informs the Court that after framing of charges on 15.03.2021, out of total 32 prosecution witnesses, only 17 have been examined so far and the next date of hearing before the trial Court is 12.03.2024.

6. Looking into the totality of facts as discussed hereinabove and the submissions made by learned counsel for the respective parties, this Court is of the firm view that trial will take a long time as is evident from number of witnesses, who are yet to be examined by the prosecution and for that the petitioner cannot be detained behind the bars for an indefinite period.

7. This Court is sanguine of the fact that according to the proposition settled by the Apex Court in *Dataram Singh vs. State of Uttar Pradesh & Anr. 2018(2) R.C.R. (Criminal) 131*, that keeping somebody behind the bars, till his guilt is proved, for an indefinite period amounts to infringement of his right to life and liberty, as enshrined under Article 21 of Constitution of India and is against the principle “*bail is a rule*” and “*jail is an exception*”.

8. In the light of above, the petitioner is directed to be released on regular bail on her furnishing bail and surety bonds to the satisfaction of the trial Court/Duty Magistrate, concerned.

9. In the afore-said terms, the present petition is hereby allowed.

10. However, it is made clear that anything stated hereinabove shall not be construed as an expression of opinion on the merits of the case.

(SANDEEP MOUDGIL)
JUDGE

16.02.2024

Poonam Negi

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No