

In The High Court for the States of Punjab and Haryana
At Chandigarh

CRM-M-17323-2024 (O&M)
Date of Decision:- 16.04.2024

Firoz Ahamad ... Petitioner

Versus

State of Haryana ... Respondent

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present:- Mr. Kunal Muthreja, Advocate, for the petitioner.
Mr. Ramender Singh Chauhan, AAG, Haryana.

FIR NO.	DATE	POLICE STATION	OFFENCES
387	27.09.2022	Badshahpur, Gurugram	302, 201 IPC

GURVINDER SINGH GILL, J. (Oral)

1. The instant petition has been filed on behalf of the petitioner seeking grant of regular bail in respect of aforementioned FIR.
2. The FIR in question was lodged pursuant to recovery of a dead body by one Mohammad Ishaq. In the FIR Mohammad Ishaq stated that on 27.9.2022 at about 8.15 am when he was crossing the road so as to access an empty space across the road, he saw a dead body lying

beside a tree and that injury marks could be seen on the head and face of the said dead body.

3. It is the case of prosecution that the dead body came to be identified to be of Ashu Ali after about a year by brother of the deceased. Statement of Mairun wife of the deceased was also recorded on 20.09.2023 wherein she stated that she had been residing with Ashu Ali since the last 7/8 years having married him in the year 2013. She stated that about 1 ½ years back, Firoz Ahamad (petitioner) who runs a scrap dealing shop had come to their house along with her husband as the deceased had been working for Firoz Ahamad. She further stated that her husband Ashu Ali was addicted to drugs and frequently used to quarrel with her and at times would not even return back home for 3/4 months at a stretch. It is stated that her husband had not come back home since the last more than one year and she remained under impression that he had gone somewhere as usual. She further stated that on 26.9.2023 (incorrectly mentioned as 2023 though it ought to be 2022), her husband Ashu Ali started harassing her at about 10.30/11 pm when he had returned home. She called Firoz Ahamad who took her husband away while stating that he will reason out with her husband. However, her husband did not return for one year and now she had come to know that Firoz Ahamad had killed her husband.
4. Learned counsel for the petitioner submits that he has falsely been implicated in the present case solely on the basis of a statement made by wife of the deceased after more than one year of occurrence. It has

been submitted that apart from the aforesaid statement there is no other evidence to connect him with the alleged murder of the deceased inasmuch as it is apparently a case of blind murder. Learned counsel submits that the petitioner has been behind bars since the last more than 6 months and that he enjoys a clean record. It has further been submitted that the trial has not even commenced till date and as many as 30 PWs have been cited.

5. Opposing the petition, learned State counsel submitted that apart from the statement made by wife of the deceased, even the petitioner himself admitted his guilt. It has also been submitted that as a matter of fact the petitioner was having extra-marital affair with the wife of the deceased and had eliminated the deceased so as to give effect to his designs. Learned State counsel has not disputed that the petitioner has been behind bars since the last about 6 months and 21 days and that none out of the cited 30 PWs has been examined till date and that the petitioner is not involved in any other case.
6. This Court has considered the rival submissions.
7. Admittedly, it is a case of blind murder wherein there is no eye-witness to the alleged murder of the deceased. The petitioner came to be nominated after more than one year of the recovery of dead body of the deceased who had otherwise been missing since one year and in respect of which no 'missing' report was ever lodged. The only evidence against the petitioner is in the shape of statement of wife of the deceased who has stated that on 26.09.2022, her husband had quarreled with her and she had called the petitioner to her residence

and that the deceased had left in the company of the petitioner. It will be debatable as to such like evidence would be sufficient to bring home the guilt of the petitioner in the absence of any other connecting evidence. The petitioner enjoys a clean record and has been behind bars since the last more than 6 months. Conclusion of trial is likely to take time as none out of the cited 30 PWs has been examined till date. Under these circumstances, no useful purpose would be served by further detaining the petitioner behind bars. The petition, as such, is accepted and the petitioner is ordered to be released on regular bail on his furnishing bail bonds/surety bonds to the satisfaction of learned trial Court/Chief Judicial Magistrate/Duty Magistrate concerned.

16.04.2024

mohan

(GURVINDER SINGH GILL)
JUDGE

Whether speaking /reasoned	Yes / No
Whether Reportable	Yes / No