

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

218

CRM-M-25708-2023 (O&M)
Reserved on: 01.04.2024
Pronounced on:18.04.2024

RAHUL

...Petitioner

Versus

STATE OF HARYANA

...Respondent

CORAM: HON'BLE MS. JUSTICE HARPREET KAUR JEEWAN

Present : Mr. Kunal Dawar, Advocate
for the petitioner.

Mr. Amrik Singh Narwal, DAG, Haryana.

HARPREET KAUR JEEWAN, J. (ORAL)

1. Prayer in the present petition filed under Section 439 Cr.P.C. is for grant of regular bail to the petitioner in case bearing FIR No.590 dated 12.08.2018 registered under Sections 302, 363, 366 IPC (Sections 498-A, 304-B, 201, 120-B, 34 IPC and Section 25 of the Arms Act added later on and Sections 363, 366 IPC were deleted) at Police Station Sadar, Palwal.

2. As per the prosecution version in brief, Sanjay-co-accused of the petitioner, who basically belongs to Uttar Pradesh was residing in Rajiv Colony, Palwal and since 08.08.2018 he was keeping a baby-female child aged about 1-1½ years with him. The first informant-Anita resident of the same area suspected that the child does not belong to Sanjay, as such on 10.08.2018 with the help of

another lady Rekha, she took out the child from the house of Sanjay and the child was kept in the house of Rekha and she telephonically informed the police. On receiving the said information, ASI Rameshwar Singh, Incharge of Police Post, Kithwaripul along with his police party reached the house, where the baby was kept and directed the informant to keep the child with her till next morning, whereby the child would be handed over to Child Welfare Committee. On 11.08.2018, the child was produced before the Child Welfare Committee, Bal Bhawan, Palwal.

2.1. It is further the case of the prosecution that initially Sanjay-co-accused of the petitioner was questioned about the said baby and he informed that the child was brought on 08.08.2018 in the mid-night by his brother-in-law-Vishnu @ Kallu resident of Gorai (U.P.), who told him that on 08.08.2018 at about 11.30 pm he had found the child crying under Dudhola flyover. Sanjay further informed that since Vishnu @ Kallu was having his ITI exam in U.P. on the next day, therefore he went back leaving the child with him.

2.2. After that ASI contacted Vishnu @ Kallu telephonically, who informed that the child belongs to Bimlesh wife of Rahul resident of Prithla-the present petitioner. The said ASI conducted further investigation and enquired the facts from various persons. During the said enquiries, ASI came to know that Vishnu @ Kallu (brother-in-law of Sanjay) in whose custody the minor child was found enticed away Bimlesh (who is wife of present petitioner) along with her minor daughter. The enquiry officer gathered that Vishnu @ Kallu had either committed murder of Bimlesh or kept her concealed. Upon gathering this information and initial enquiry, the FIR was registered.

2.3. However on 13.08.2018, Subhash-brother of Bimlesh moved a

complaint against the present petitioner and Vishnu @ Kallu with the allegations of committing dowry death of Bimlesh, as such DD No.27 was recorded on 13.08.2018. On 13.08.2018, the petitioner-Rahul and Vishnu @ Kallu were arrested and interrogated. During interrogation, they disclosed about the entire sequence of events involved in killing and disposing off the dead body of Bimlesh. On the basis of the disclosure statements, (Annexure R-1 is disclosure statement of the petitioner), they got demarcated the said place and got recovered the dead body from a place near railway corridor Prithla. The autopsy of the decomposed body was done at SHKM, Medical College, Nalhar. As per the post mortem report (PMR), a fire arm injury with entry and exist wound was found on the chest area of the dead body (Annexure R-2).

2.4. The present petitioner was arrested on 18.08.2018. During the police remand, both the petitioner as well as Vishnu @ Kallu demarcated the place i.e. room of the first floor of the house of the present petitioner-Rahul, where the wife of the petitioner was killed by giving firm arm injury on her chest. The petitioner as well as his co-accused also got recovered bottle of glucose, IV set, bedsheet, pillow, quilt and its cover, empty sedative injections and needles. The present petitioner also got demarcated the provisional store of Khemchand from where he purchased the packets of salt and also recovered a motorcycle which was used to ferry dead body from his house to railway corridor. The petitioner also demarcated the place where he left his daughter-Tannu (the child) and his co-accused Vishnu @ Kallu in Rajiv Nagar, Palwal. Recovery of country made pistol was also effected from Vishnu @ Kallu-co-accused of the petitioner.

3. Learned counsel for the petitioner *inter alia* contends that the petitioner has been falsely implicated in this case and the petitioner is in custody

for more than 05 years 07 months and 11 days. The trial is going to take time. The case is based upon circumstantial evidence. Vishnu @ Kallu-co-accused of the petitioner from whom the recovery of the country made pistol has been effected has already been granted bail by the Coordinate Bench of this Court vide order dated 20.03.2023 passed in CRM-M-30860-2022 and on the basis of parity and custody of the petitioner, prayer for releasing the petitioner on regular bail has been sought.

4. On the other hand, learned State counsel on instructions from concerned Investigating Officer opposes the bail on the ground of gravity of allegations levelled against the petitioner.

5. I have considered the aforesaid contentions and facts of the present case. Place of occurrence is house of the petitioner from where the dead body was dug out, at the demarcation of the petitioner and under the supervision of the Duty Magistrate and entire incident was video-graphed as per para No.13 of the status report filed on behalf of respondent-State. The dead body is found to have fire arm injury with entry and exit wound. During the investigation, the petitioner has also demarcated the place where he left his daughter-Tannu (the child) and his co-accused Vishnu @ Kallu in Rajiv Nagar, Palwal.

6. The fact that the minor female child of 1-1½ years was left abundant by her natural parent, no doubt is an offence under the Juvenile Justice (Care and Protection of Children) Act, 2015 (hereinafter referred to as Act of 2015), however, the manner in which the crime has been allegedly committed by the petitioner with the aid of co-accused, *prima facie* shows the hard attitude of the petitioner. He is not only facing allegation of commission of murder of his wife, but also abandoning his own minor female child, of such tender age, when in such

age, a child requires the protection, care and custody of her parents. Girl minor child of such an age is further vulnerable to abuse. Apart from the allegations of murder of his wife, the petitioner is alleged to have violated the child rights of his own female daughter, such is the gravity of the offence, as such no ground is made out for releasing the petitioner on bail.

7. Consequently the present petition is dismissed.

8. However before parting with this order, it is observed that the role of the first informant in saving a child of 1 ½ years of age from abuse is commendable. She being a member of the society has played a very important role in aiding the police authorities to perform their duties towards “a Child in Need of Care and Protection”. Her role as a member of civil society is required to be appreciated. Such citizens play an important role in implementation of the Juvenile Justice (Care and Protection of Children) Act, 2015, which has been legislated with an intention to protect the children from vulnerability. Member Secretary, State Legal Services Authority, Haryana, may further explore using the capabilities of the first informant for dissemination of the information about the Act of 2015 in various programmes as well as to provide motivation to her.

9. The role played by the ASI-Rameshwar Singh in making initial enquires with such a zeal led to the protection of the Child, who was in need of Care and Protection. His role is also required to be appreciated by the police authorities.

10. I am seized of the fact that matter is still under trial, as such the aforesaid observations are not on merits and the trial Court would not be swayed away with the aforesaid observations while deciding the trial on merits.

11. All pending miscellaneous application(s), if any, stands disposed of.

12. Copy of this order be sent to Member Secretary, State Legal Services Authority, Haryana as well as Director General of Police, State of Haryana.

(HARPREET KAUR JEEWAN)
JUDGE

18.04.2024
P.Bhatt

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