

CRM-M-25285-2024

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-25285-2024
Reserved on: 03.09.2024
Pronounced on: 13.09.2024

Mohd. Mukesh Khan ...Petitioner

Versus

State of Haryana ...Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. Prateek Rathee, Advocate
for the petitioner.

Mr. Aashish Bishnoi, DAG, Haryana.

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
39	20.02.2023	Sector 14, District Gurugram, Haryana	302 IPC (Section 201 IPC added later on)

1. The petitioner incarcerated in the FIR captioned above had come up before this Court under Section 439 CrPC, 1973, seeking regular bail.
2. In paragraph 8 of the bail petition, the accused declares that he has no criminal antecedents.
3. The facts and allegations are being taken from the reply filed by the State, which reads as follows:

“That the brief facts leading to registration of the aforementioned FIR are that on 20.02.2023, an information was received at the Police Station that dead body of a girl had been brought to Fortis Hospital by two boys, one of them being the petitioner herein, who had asserted that the girl, since deceased, had fallen from the 4th floor. Pursuant to the information, the police team reached at Fortis Hospital, Gurugram and obtained copy of MLC and Ruqa (police information). The said girl was declared having been brought dead and none from the family members of the deceased girl were found there. After some time, the elder sister of the deceased namely Kavita, reached there along with her legal advisor and presented a written complaint stating therein that since the last four years, she was working in Flat No.101, Mihir Society, Sector-52, Gurugram as a nanny and the deceased Kalpana was her younger sister, who also used to work as a cook in various houses since the last 6-7 years. It was further stated by her that on 28.12.2022, she had gone to her village and came to Delhi on 31.01.2023. She had come to Khanpur Hostel, Delhi and on 03.02.2023 she went to meet her sister Kalpana in the hostel. It was further stated that

on 05.02.2023, she had returned to her work. The complainant further averred that 2-3 days ago she came to know that her sister was with her friends. She was not acquainted with the friends of her sister and her sister told her that she would come to hostel on 19.02.2023, as she had to join her job on 20.02.2023, however, the complainant came to know that her sister along with her friends had gone out of town since 10.02.2023. The complainant further maintained that she had talked to her sister latest on 18.02.2023 and on 20.02.2023 around 04:00 AM she had received a call from her uncle Nar Bahadur, who informed her that her sister had committed suicide. It was further alleged that after some time, she received a call from mobile phone No.8348410556, who had introduced himself as Mukesh i.e. the petitioner, and had told her to reach at the Fortis Hospital at the earliest as her sister was admitted to the hospital. It was further alleged that the petitioner had also shared the hospital's location and thereafter, the complainant had contacted Sanjeet on his mobile phone and disclosed about the incident and reached the hospital along with other relatives. It was further alleged that her sister was with the petitioner since 10.02.2023 and he was with her sister on the previous day and she asserted the she was having an apprehension that the petitioner might have thrown her sister from the 4th floor. She further contended that her sister could not have committed suicide and she was pushed from the floor. On the basis of her complaint, the present FIR was registered and investigations were taken up.

4. That during the course of investigation, on 20.02.2023, the body of deceased Kalpana was inspected by the investigating agency photographs of the deceased and were clicked by mobile phone. Further, the proceedings of inquest as per the mandate of Section 174 Cr.P.C. were conducted and the dead body of the deceased was got subjected to post mortem examination. Thereafter, the dead body of the deceased was handed over to the next of her kin for conducting her last rites.

5. That the post mortem examination report No. LC/SK/73/23 dated 20.02.2023 was taken on record and as per the perusal of the same, the medical officer had found a total of 9 injuries on the person of the deceased and had opined that the cause of death of the deceased was the complications of the injuries described in the postmortem examination report. However, for further forensic investigation, viscera and vaginal swab were preserved to detect the presence of spermatozoa to detect any probable time between the injuries and the time of death. The samples handed over to the police were taken in police possession and were subsequently forwarded for the purpose of forensic examination.

6. That during the course of further investigation, the place of occurrence was inspected and photographs of the site were taken. Physical evidence was collected from the place of occurrence. Further, a pair of slippers with blood stains on them, two liquor bottles, cigarette butts and ashtray and clothes of deceased were also taken into police possession. Scene of crime was got inspected by forensic team.”

4. The petitioner's counsel prays for bail by imposing any stringent conditions and contends that further pre-trial incarceration would cause an irreversible injustice to the petitioner and their family.

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5. The State’s counsel opposes bail and refers to the reply.
6. It would be appropriate to refer to the following portions of the reply, which read as follows:

“9. That during the course of further investigation. the CCTV footage from the cameras installed at the site of the incident was taken into police possession alongwith the requisite certificate mandated by the provisions of Section 65 B of The India Evidence Act, 1872. The collected CCTV footage was analyzed and upon analysis of the same, it had transpired that the petitioner and the deceased Kalpana could be seen quarreling and the petitioner could be seen forcibly dragging her away by holding her hand and the deceased could be seen falling down from above.

x x x x x
13. That it further transpired that on 19.02.2023 the petitioner alongwith his friends were present at the rented accommodation of Suman Suba and in the said party they had consumed beer; however, the deceased was repeatedly receiving phone calls on her number and a verbal spar had ensued between the deceased and the petitioner and pursuant to that they had walked out of the party and thereafter had reached on the rented accommodation and the petitioner in the fit of rage, had burnt the wrist of the deceased with cigarette and thereafter the petitioner had dragged her and while the deceased was present in the 4th floor balcony, she was pushed down by the petitioner and thereafter the deceased succumbed to the injuries suffered by her on account of the fall.”

7. The digital evidence explicitly points towards the petitioner’s involvement.
8. A perusal of the bail petition and the documents attached prima facie points towards the petitioner’s involvement and does not make out a case for bail. Any further discussions are likely to prejudice the petitioner; this court refrains from doing so.
9. Any observation made hereinabove is neither an expression of opinion on the case's merits nor shall the trial Court advert to these comments.
10. **Petition dismissed.** All pending applications, if any, are disposed of.

(ANOOP CHITKARA)
JUDGE

13.09.2024
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Whether speaking/reasoned: Yes
Whether reportable: No.