

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-31871-2024
Reserved on: 21.08.2024
Pronounced on: 23.08.2024

VIJAYPAL

.... PETITIONER

Vs.

STATE OF HARYANA

.... RESPONDENT

CORAM: HON'BLE MR JUSTICE DEEPAK GUPTA

Present: - Mr. Samay Singh Sandhawalia, Advocate, for the petitioner.
Mr.K.S. Brar, Addl. Advocate, General, Haryana.

DEEPAK GUPTA, J.

By way of this petition filed under Section 439 CrPC, petitioner prays for his release on regular bail in case FIR No.441 dated 24.07.2021 (*Annexure P1*) under Sections 302, 364, 201 / 34 IPC registered at Police Station Rai, District Sonipat. It is his third petition for this purpose. The first application was dismissed by Sessions Court Sonapat vide order dated 2.12.2023 (*Annexure P5*). The second petition bearing CRM-M-62039-2023 was dismissed as withdrawn by this court vide order dated 14.03.2024 (*Annexure P6*).

2. Custody certificate as well as status report by way of an affidavit of Mukesh Kumar, HPS, Assistant Commissioner of Police, Rai, Sonipat has been filed on behalf of the respondent-State.

3.1 FIR was lodged on the complaint of Ved Parkash son of Sobha Chand, as per which he had performed love marriage with Kanika daughter of petitioner-Vijaypal on 24.11.2020. After marriage, they resided at Bahadurgarh, District Jhajjar. On 26.11.2020, Kanika with the consent of her family members had gone to her parental house and returned back on 03.06.2021. It was further stated by complainant-Ved Parkash that on 06.07.2021, father of Kanika i.e. petitioner-Vijaypal made a telephonic call

inviting her to attend his birthday. Believing him, complainant met petitioner-Vijaypal at 2:00 PM on 06.07.2021 near the main gate of Police Station Rai, Sonipat and got boarded his wife Kanika in car of petitioner-Vijaypal. At that time, he (complainant) had made a video from his mobile phone. However, ever-since then, petitioner-Vijaypal did not allow Kanika to have telephonic conversation with the complainant-Ved Parkash and her mobile phone was going switched off. Complainant raised suspicion that petitioner had taken away his wife-Kanika with an intention to kill her. He also raised his suspicion towards Sandeep and Rakesh, cousins of Kanika to have connived with accused-Vijaypal (*petitioner herein*). On this complaint, FIR under Section 346 IPC was registered and investigation was set in motion.

3.2 During investigation, call detail records of Kanika, complainant-Ved Parkash and accused/petitioner-Vijaypal were obtained and taken into possession. Petitioner was found untraced. On 27.07.2021, Ram Kumar, Numberdar of Village Mukimpur, presented an application, stating that petitioner-Vijaypal had made an extra judicial confession before him to have killed his daughter Kanika along with his relative Virender by strangulating her with her *chunni* and to have thrown away her dead body in Gang Nehar near Meerut, Uttar Pradesh. On the basis of his statement, DDR No.23 dated 27.07.2021 was recorded in the Roznamcha of Police Station.

3.3 On the same day i.e. 27.07.2021, petitioner surrendered in the police station. He was joined in the investigation and on interrogation, he suffered disclosure statement (*Annexure R1*), which is to the following effect:

“Disclosure Statement of accused Vijaypal -

In the presence of following witnesses, above named accused Vijaypal while in police custody without any fear, pressure, greed or coercion voluntarily suffered disclosure statement that "in November, 2020, my daughter Kanika had performed love marriage with my co-villager Ved Parkash son of Sobha Chand, resident of Mukimpur, P.S. Rai after eloping from the house and after performing love marriage, she had returned back to the village and feeling defamed in the village, my family had started residing at Rohtak. On

03.06.2021, my daughter Kanika had again eloped from Rohtak with Ved Parkash and after contacting my daughter, I had made her agreed to come at my birthday occasion on 07.07.2021. With a view to take my daughter Kanika, I had gone to Sonipat on 06.07.2021 in Skoda Fabia Car bearing No. HR-26BH- 8149 and Ved Parkash had sent Kanika with me when they were present in front of gate of Police Station Rai, Sonipat and after boarding Kanika in car, I had proceeded towards Rohtak. On the way, I persuaded Kanika to leave the company of Ved Parkash, but she did not agree with me. After reaching near Kharkhoda, Sonipat, I had switched off the mobile phone of Kanika. After reaching near Rohtak, I made phone call on mobile phone No.8398882142 of my relative namely Virender, resident of village Rithal from his mobile No.9813665534 and called him and Virender had met me near Mahendra School, Rohtak, where they both had planned that Kanika was not ready to leave Ved Parkash and as such, now she has to be eliminated, otherwise, she would again defame them. In search of an abandoned place, they reached towards village Kheri Damkan and at that time, I was driving the Car, Kanika was sitting on the front seat beside him and Virender was sitting on the rear seat. On seeing an abandoned place in the area of village Kheri Damkan, in the moving Car, Virender had strangulated Kanika with the Chunni worn by her around her neck by pulling the Chunni backwards, while I had caught hold of hands of Kanika and in some time, Kanika had died due to strangulation and at that very place, I had switched off my mobile phone. Thereafter, we both planned to destroy the dead body of deceased Kanika and as per our plan, they started for Uttar Pradesh via Sonipat. On the way, we also got their Car fueled from petrol pump near Murthal and also got filled petrol in an empty two liters bottle. Thereafter, we reached on KGP Expressway and via Dasna, Uttar Pradesh, we reached Jaani bridge of Gang Nahar near Meerut, Uttar Pradesh, where on the one side of Gang Nahar, road was constructed, while on its other side was unmetalled passage. After reaching at the unmetalled side/road of Gang Nahar, we threw the dead body of deceased Kanika and her mobile phone in Gang Nahar. Thereafter, we started back from there and after reaching in village Salimsar Majra fields, they had burnt the belongings of deceased Kanika and went to Rohtak, where they had switched on their mobile phones. After one week of the occurrence, I had also thrown my

mobile phone and key of my Car Skoda Fabia in a canal in the area of village Lath. After being perplexed having killed my daughter Kanika, I had disclosed all these facts to his co-villager namely Ram Kumar Numberdar and surrendered in the police station with said Ram Kumar Numberdar. I can demarcate the place where I and Virender had strangulated Kanika with Chunni and murdered her. I can also demarcate the place where I had thrown the mobile phone and dead body of Kanika in the Nehar and can get the same recovered and the car in which the crime was committed, can get the same recovered from my house at Rohtak. I can also get demarcated the place, where I had burnt the bag and other articles of Kanika the place, where I had thrown my mobile phone and key of car. Disclosure statement of accused has been recorded, which has been signed by accused and the witnesses.

Witness-

Sd/-

Ct. Naveen 228-SPT

Sd/-

Accused Vijaypal

Sd/-

SI Shamsher

P.S. Rai

28.07.2021"

3.4 Pursuant to the abovesaid disclosure statement suffered by the petitioner-Vijaypal, he got demarcated the place at G.T. Road, Rai, Sonipat, from where he had taken away his daughter Kanika on 06.07.2021 by boarding her in his car No.HR-26BH-8149. He further demarcated the place, where he along with co-accused Varinder had murdered his daughter Kanika by strangulating her in the area of village Kheri Damkan, Sonipat. He also demarcated the place, where he had put the clothes of the deceased-Kanika carried out by her along with artificial ornaments/cosmetics hand bag and mobile charger. Section 302/201/34 IPC were added. Said place was later on demarcated by the FSL team and the burnt articles were from the spot and taken into possession, which were duly identified by the complainant-Ved Parkash. Pursuant to his disclosure statement, petitioner-Vijay Pal got recovered car No.HR-26BH-8149 used in the crime. On Inspection of the said car, *Mangalsutra* of the deceased-Kanika was found lying between the conductor side seat and hand brake of the car, which was taken into

possession. Said *Mangalsutra* was duly identified by the complainant-Ved Parkash to be that of his deceased wife Kanika.

3.5 On 29.07.2021, efforts were made to trace the dead body from the Gang Nehar, UP, but in vain, as despite sincere efforts dead body of deceased Kanika could not be traced. During further investigation, complainant-Ved Prakash produced documents pertaining to his marriage with deceased Kanika, pen drive and two mobile phones, which were taken into possession. In the mobile phone, deceased-Kanika and Ved Prakash had prepared videos, when the deceased had accompanied the petitioner-Vijaypal on 06.07.2021. Said videos were converted by complainant in pen drive, which were taken into possession and in this regard certificate under Section 65-B of the Indian Evidence Act was also obtained.

3.6 On 01.08.2021, co-accused Virender was arrested and on interrogation, he suffered disclosure statement admitting his role in the crime on the same lines. Vikas son of Jai Singh, Rakesh son of Ranbir and Sandeep son of Jasbir were also joined in the investigation, but no connecting evidence could be found against them.

3.7 During further investigation, record relating to the toll plaza of passing of the car No.HR-26BH-8149 used in the crime was obtained, as per which it was found that on 06.07.2021, said car had entered the KGP Expressway from Jakholi Toll Plaza and had left the highway from Dasna Toll Plaza, UP. Call detail records of the complainant-Ved Prakash, deceased Kanika and petitioner-Vijaypal and co-accused Varinder were obtained as per which calls were found to be made between complainant and petitioner on 06.07.2021. Petitioner was also found to have made call to the co-accused. However, the mobile phones of the deceased-Kanika and petitioner-Vijaypal beside the dead body of deceased Kanika, which were thrown in Gang Nehar could not be recorded.

3.8 After completion of investigation, final report under Section 173 CrPC was submitted in the Court to prosecute petitioner-Vijaypal and co-

accused Varinder. Charges under Section 364, 302, 201 read with Section 34 IPC were framed on 07.01.2022 and the case is now pending before Id. Additional Sessions Judge, Sonipat for 04.10.2024 for prosecution evidence.

3.9 Status report reveals further that out of 25 witnesses cited by the prosecution, 8 have been examined; whereas, complainant-Ved Prakash was to be given up due to his murder.

3.10 As per Status report, during trial, Ved Prakash i.e. complainant of the case has been murdered by the petitioner, after hatching conspiracy with co-accused, when said complainant-Ved Prakash had visited the Court complex, Sonipat on 22.04.2022 for giving evidence in the present case and regarding which, a separate FIR No.254 dated 22.04.2022 under Section 302, 120B read with Section 34 IPC & Section 25 of the Arms Act, 1959 was registered at Police Station, Sonipat. It was found in the investigation of that case that petitioner-Vijaypal had hatched the conspiracy with co-accused Ankush and Rahul so as to commit the murder of complainant-Ved Prakash. Status report also gives details of the five cases, in which the petitioner is involved.

4.1 It is contended by learned counsel for the petitioner that case is dependent upon the circumstantial evidence; that Ram Kumar, Numberdar before whom the petitioner allegedly made extra judicial confession, was examined during trial as PW1 but he did not support the prosecution case, by clearly stating that his signatures were taken by the police on some blank papers. Id. counsel also draws attention towards the cross-examination of this witness i.e. PW1 Ram Kumar in which he stated that he had seen Ved Prakash and Kanika on 21.07.2021 at 6-7 PM, when they were going to GT road. Id. counsel submits that in view of the said statement, the prosecution version that deceased was last seen in the company of the petitioner on 06.07.2021 has lost its significance.

4.2 Learned counsel further submits that co-accused Varinder has already been allowed bail by a Coordinate Bench of this Court vide order

dated 28.11.2023 in CRM-M-58579-2023 (*Annexure P3*). Besides, petitioner has already been allowed bail in case FIR No.254 dated 22.04.2022 registered at Police Station City Sonipat under Sections 302/120B/34 IPC and 25 of the Arms Act in respect of the murder of Ved Prakash vide order dated 9.5.2024 in CRM-M-61849-2023. Ld. counsel contends that at the time when murder of the Ved Prakash was committed, petitioner was confined in Jail in the present case.

4.3 Ld. counsel also submits that petitioner is in custody for the last more than three years; that trial is likely to take long time to conclude having long list of prosecution witnesses and therefore, in all these circumstances, he be allowed bail.

5. Strongly opposing the bail petition, Id. State counsel submits that petitioner is the king pin of the crime, who firstly committed the murder of his own daughter-Kanika and later on, under a conspiracy hatched by him got murdered Ved Prakash, the complainant of the present FIR. Ld. State counsel submits that though the case is based upon circumstantial evidence, but there are numerous circumstances to prove the guilt of the petitioner. Though it is conceded that PW Ram Kumar, Numberdar has not supported the prosecution version regarding the extra judicial confession, having been won over by the co-accused-petitioner, but it is contended that there is other evidence in the form disclosure statement and the consequent recoveries besides the last seen evidence against the petitioner. Ld. State counsel also submits that because of the murder of Ved Prakash, his statement made before the police is to be considered as his dying declaration. With all these submissions, prayer is made for rejection of the petition.

6. I have considered submissions of both the sides and have appraised the record.

7. It is the conceded case of both the sides that case is dependent upon the circumstantial evidence. Apparently, this is a case of so called honour killing, in as much as, petitioner is alleged to have committed murder

of his own daughter Kanika, who had performed love marriage with the complainant of the case Ved Prakash. Even said Ved Prakash was later on murdered, when he came to depose in the court.

8. As status report would reveal that following circumstantial evidence has been collected against the petitioner: -

- (a) extra judicial confession made before Ram Kumar, Numberdar.
- (b) last seen evidence, inasmuch as deceased Kanika was last seen in the company of the petitioner by the complainant-Ved Prakash, regarding which he had even made a video.
- (c) detailed disclosure statement of the petitioner – Annexure R1 (already reproduced)
- (d) Demarcation memos of various spots by the petitioner, from where he got boarded his daughter in his car; the spot where he strangled his daughter Kanika; the spot where he had thrown the dead body; and also the spot, where he burnt her clothes, artificial ornaments/cosmetics/belongings etc.
- (e) Consequent recovery of the burnt articles lifted from the spot by the FSL team.
- (f) recovery of the car used in the crime at the instance of the petitioner and from the said car, recovery of the *Mangalsutra* of the deceased duly identified by the complainant.
- (g) recovery of the pen drive and the mobile of the complainant containing the video clipping, as per which petitioner had taken away Kanika on 06.07.2021.
- (h) the record of the toll plazas showing the entry of the car used in the crime to KGP Expressway from Jakholi Toll Plaza and leaving the highway from Dasna Toll Plaza, UP; and
- (i) the recovery of call detail records of the mobile of the deceased,

complainant and the petitioner besides that of the co-accused Varinder.

9. Not only this, as per the police investigation, it is the petitioner, who by hatching a conspiracy got murdered the most material witness of this case i.e. complainant-Ved Prakash regarding which separate FIR has been registered. It will be a moot point as to whether statements of Ved Prakash made before the police can be treated as his dying declaration; or whether those statements can be treated as evidence in case these are proved by the Investigating Officer of the case, who had recorded the same.

10. Having noticed all the aforesaid facts and circumstances, merely because one of the witnesses namely Ram Kumar has turned hostile, cannot be a reason to grant bail to the petition. Taking into consideration seriousness of the allegations against the petitioner and the nature of the evidence collected during investigation, but without commenting anything further on the merits of the case, this Court is not inclined to grant bail to the petitioner.

11 Dismissed.

Pending application (s), if any, also stand disposed of.

23.08.2024

Vivek

(DEEPAK GUPTA)
JUDGE

<i>Whether speaking/reasoned?</i>	<i>Yes</i>
<i>Whether reportable?</i>	<i>Yes</i>