

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M No.38535 of 2024
Reserved on: 16.10.2024
Pronounced on: 22.10.2024

Rasha ...Petitioner

Versus

State of Punjab ...Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. Shiv Kumar Sharma, Advocate
for the petitioner.

Mr. Jasjit Singh, DAG, Punjab.

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
159	13.09.2023	Dugri, District Ludhiana	302, 34 IPC

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 11 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:

“2. That the factual matrix pertaining to the present case are mentioned hereinbelow:

- i. That on the basis of the statement given by Khushwant Singh @ Ricky (hereinafter referred to as "the complainant"), the present case i.e. FIR No. 159 dated 13.09.2023 was registered under Section 302, r/w Section 34 of the IPC at PS Dugri, Ludhiana wherein individuals namely Sunny, Shafiq, and Rasha (the present petitioner) were named as accused.*
- ii. That as per the complainant's statement, his younger brother Gagandeep Singh, who was engaged in the business of property dealing, had left the house on 09.09.2023 at around 2 PM and did not return. Consequently, on 10.09.2023, the complainant, along with other family members, initiated a search for him. During their search, they discovered that on 09.09.2023, an individual named Sunny had taken Gagandeep Singh to the shop of the scrap dealer namely Shafiq. It was further*

alleged that at Shafiq's shop, Gagandeep Singh was murdered by Sunny, Shafiq, and Rasha (the present petitioner). After committing the murder, the accused allegedly took Gagandeep Singh's body into a Tata Ace' vehicle and then disposed of the dead body by dumping it into the canal near Balowal. The complainant also mentioned that, a few days prior to the incident, an altercation had taken place between Gagandeep Singh the named accused persons over the purchase of certain materials. It was stated that Gagandeep Singh had been preventing the accused persons from purchasing stolen materials, and due to this grudge, the accused persons conspired and committed the murder of Gagandeep Singh.

- iii. That upon the registration of FIR, the investigating agency conducted an inspection of the place of occurrence, which was identified as the shop of accused Shafiq. During the inspection, human blood was discovered at the scene, the sample of the same was subsequently collected, sealed, and taken into police custody.*
- iv. Thereafter, the dead body of the deceased, Gagandeep Singh, was recovered from the embankment of the Abohar Branch Canal in Village Bahni. The body was identified by the complainant, based on the "SONA" tattoo inscribed on the chest of the deceased. Following the recovery, a post-mortem examination of the deceased was conducted at the Civil Hospital, Ludhiana.*
- v. That during the investigation, the accused Shafiq Khan was arrested on 14.09.2023, and subsequently on 16.09.2023, accused i.e. Sunny, was also arrested in the present case.*
- vi. That the accused Shafiq Khan, in a statement made under Section 27 of the Indian Evidence Act, disclosed that he, along with Sunny and the petitioner i.e. Rasha, had inflicted fatal injuries on Gagandeep Singh with an iron daat and an iron rod while the deceased was sitting on a chair in Shafiq's shop. He further revealed that after the murder, the deceased's body was placed in a yellow plastic bag, loaded into a Tata Ace vehicle bearing registration number PB 13 AW 4961, and disposed of in the Balowal Canal.*
- vii. That is pertinent to mention that based on the information disclosed by the accused Shafiq in the aforesaid statement, the investigating agency recovered the TATA Ace vehicle, and from inside the said vehicle the iron daat, and the blood-stained chair used during the crime were also recovered.*
- viii. That, on the basis of the disclosure made by the accused Sunny, the bloodstained iron rod used by him during the incident was recovered.*
- ix. That subsequently on 20.09.2023, the present petitioner, Rasha, was arrested in connection with the present case.*
- x. That upon the completion of the investigation, the final report/challan was presented before the Learned Trial Court on 13.12.2023. And, that now the next date of hearing has been scheduled for 07.11.2024 for the examination of prosecution evidence.*
- xi. That the blood sample collected from the scene of the crime, along with the blood-stained iron daat recovered from accused Shafiq and the blood-stained*

iron rod recovered from accused Sunny, were sent to the FSL for examination. The FSL report, dated 15.12.2023, has confirmed the presence of human blood on all the exhibits.”

4. The petitioner's counsel made the following submissions:
 1. There is a delay of 3 days in FIR. As per FIR, complainant got to know about the murder on 10.09.2023 but the FIR was registered on 13.09.2023.
 2. Alleged motive is with Shafiq Khan (co-accused).
 3. No injury/weapon is attributed to the petitioner. His alleged role is only that he was accompanying the other co-accused. (page no. 18, 19 & 20)
 4. Haphazard investigation Personal search memo of petitioner is dated 16.09.2023. Arrest memo of the petitioner is dated 20.09.2023 which is not possible.
 5. FIR is solely based upon the suspicion and self enquiry/investigation of the complainant.
 6. Delay on the part of PWs as they are delaying the trial. They have not put in their appearance before trial court in 3 consecutive dates.
5. 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.
6. The State's counsel opposes bail and refers to the reply.
7. It would be appropriate to refer to the following portions of the reply, which read as follows:

“3. Role of the petitioner

The petitioner, in furtherance of a common intention with other accused namely Sunny and Shafiq, played a direct in the murder of Gagandeep Singh. He was present at the scene of the crime (i.e. the shop of the accused Shafiq). After the murder, the petitioner was actively involved in the disposal of the deceased's body. He assisted in placing the body into a yellow plastic bag which was then loaded into a Tata Ace vehicle bearing registration number PB 13 AW 4961. The petitioner, along with the other accused, transported the body and dumped it into the Balowal Canal in an attempt to conceal the crime.

4. Evidence against the petitioner

The evidence against the petitioner clearly demonstrates his active role in the murder of Gagandeep Singh. He was present at the scene when the fatal assault on the deceased took place, alongside other accused Sunny and Shafiq. After the murder, the petitioner was instrumental in disposing of the body. He drove the Tata Ace vehicle, bearing registration number PB 13 AW 4961, which was used to transport Gagandeep Singh's body from the crime scene to the Balowal Canal, where it was dumped in an attempt to conceal the crime. The fact that the petitioner was driving the vehicle at the time of the PURI disposal, combined with his presence at the time of the murder, points to his clear and direct involvement in furthering the common intention to commit the offence. Furthermore,

weapons i.e. iron daat and iron rod recovered from co-accused Shafiq and Sunny, along with blood samples taken from the crime scene, were sent to the FSL. The FSL report, dated 15.12.2023, confirmed the presence of human blood on all the exhibits, further corroborating the petitioner's role in the murder and his involvement in the events surrounding the crime."

8. The case is of circumstantial evidence. The evidence collected against the petitioner is that after killing the victim, he, in connivance with the co-accused, disposed of the dead body in a vehicle that the petitioner drove. In compliance with S. 207 CrPC, the petitioner was supplied with the complete copy of the police report filed under section 173 CrPC. However, the petitioner did not attach its copy. Except for the sketchy bail petition and the reply to such bail petition, this Court has no access to the complete copy of the police report. It is not the prosecutor's job to supply the police report every time the same stands supplied. The petitioner's counsel, for the reasons best known to him, did not though it appropriate to attach such report for the perusal and reference of this Court to adjudicate the bail petition with a holistic view. The offense is heinous, and the allegations severe. The petitioner's custody is for one year and one month, which cannot be termed prolonged because the minimum sentence prescribed is life imprisonment. The petitioner is not entitled to bail at this stage; however, he may file for bail after changed circumstances.

9. 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. The impact of crime would not justify bail. Any further discussions will likely prejudice the petitioner; this court refrains from doing so.

10. Any observation made hereinabove is neither an expression of opinion on the case's merits nor shall the trial Court advert to these comments.

11. **Petition dismissed.** All pending applications, if any, are disposed of.

(ANOOP CHITKARA)
JUDGE

22.10.2024
Sonia Puri

Whether speaking/reasoned: Yes
Whether reportable: No.