

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-54151-2023
Reserved on: 29.01.2024
Pronounced on: 31.01.2024
2024: PHHC: 013138

MOHAN

. . . . Petitioner

Vs.

STATE OF HARYANA

. . . . Respondent

CORAM: HON'BLE MR JUSTICE DEEPAK GUPTA

Present: - Mr. Mayankk Dahiya, Advocate, for the petitioner.
(Through Video Conferencing)

Mr. Randhir Singh, Addl. A.G., 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.137 dated 14.03.2023 registered under Sections 304, 323, 341, 201, 147 & 149 IPC at Police Station Kheripul, District Faridabad.

2. Status report dated 24.11.2023 by way of affidavit of Rajeev Kumar, HPS, Assistant Commissioner of Police, Central Faridabad, on behalf of respondent/State has been filed..

3.1 As per prosecution allegations, complaint dated 28.02.2023 made by one Guddu was received in the Police Station against Rinku, Dharamraj, Lakhan and Lekhraj regarding murder of his brother in collusion with each other. As the status report reveals, on 19.02.2023, ASI Abdul Hussain was present in the Police Station, when he received information on his mobile from ERV 190 that an unknown person had entered into the house for committing theft and was found dead outside

that house. ASI Abdul Hussain along with other police officials reached the spot, where dead body of a young unknown person aged about 25 years was lying outside the house. The house was open and the articles were lying scattered. FIR was registered.

3.2 During investigation, statements of witnesses were recorded. Deceased was identified as Arif son of Asgar Ali, resident of Village Modi Nagar Badayun, UP, presently tenant in village Mawai, Faridabad. Inquest proceedings under Section 174 CrPC were conducted. The Postmortem examination revealed the cause of death to be shock and hemorrhage due to injury to vital organs as described in the PMR, which were ante-mortem in nature and sufficient to cause death in ordinary course of nature.

3.3 Dharamraj and petitioner-Mohan were arrested on 13.04.2023. They suffered disclosure statement and demarcated the place of occurrence. Co-accused Dharamraj got recovered a bamboo stick used in the crime, whereas petitioner-Mohan disclosed that he had thrown shoes worn by him at the time of incident. Section 201 IPC was added.

3.4 During subsequent investigation, complainant produced a pen driver containing video of the place of occurrence, on which basis Section 304 IPC was deleted and Sections 302, 341 and 323 IPC was added. As per the said video footage, accused-Rinku is visible sitting at spot and binding the feet of deceased Arif son of Asgar Ali with the rope. Said rope is yet to be recovered from Rinku. Said Rinku and his brother Dharamraj are seen giving beatings to the deceased. After obtaining opinion regarding nature of injuries caused to the deceased, Section 302/34 IPC were deleted and Sections 147, 149 and 304 IPC were added.

3.5 On 16.04.2023, co-accused Sunny @ Sonu was arrested, who got recovered danda used in the crime, pursuant to the disclosure statement suffered by him, besides the clothes worn by him at the time of incident. As per the status report, petitioner along with co-accused had given beatings to the deceased and caused his murder. It is also stated that name of the petitioner surfaced in the disclosure statement of co-accused, showing his active participation.

3.6 After completion of investigation, final report under Section 173 CrPC has been filed against the petitioner-Mohan, Dharamraj and Sunny @ Sonu. Case has been committed. Charges have been framed on 03.11.2023 and case is now pending before Id. Additional Sessions Judge, Faridabad for prosecution evidence.

4.1 It is submitted by Id. counsel that petitioner has been falsely implicated simply on the basis of disclosure statement of co-accused Dharamraj; that petitioner is not named in the FIR, as only Rinku, Dharamraj, Lakhan and Lekhraj are suspected to be the persons, who might have killed the brother of complainant. Id. counsel points out that petitioner is alleged to have given beatings with shoes he was wearing, but with no specific attribution. Not only this, no recovery has been effected from the petitioner.

4.2 Id. counsel for the petitioner further points out that in the CCTV footage, as referred by the respondent/state in its reply, petitioner is not visible at all nor his presence or involvement has been admitted by the prosecution in that CCTV footage. Pointing out that petitioner is in custody ever-since 13.04.2023 and that trial may take time to conclude, prayer is made for grant of bail.

5. Ld. State counsel opposed the bail petition by pointing out towards the nature of crime. However, it is conceded by ld. State counsel that petitioner was arrested on the basis of disclosure statement suffered by co-accused Dharamraj. It is also conceded that nothing was recovered from the petitioner. Ld. State counsel also concedes that as per the CCTV footage, referred in the status report, it is only Rinku and his brother Dhraramraj, who are stated to be visible and giving injuries to the deceased and that Rinku was binding the feet of the deceased with a rope.

6. Having considered submissions of both the sides and perusing of the record, it is noticed by the Court that petitioner is not mentioned in the FIR. His name has surfaced only on the disclosure statement of co-accused. He is not stated to be visible in the CCTV footage produced by the complainant. No purpose will be served by keeping the petitioner detained.

7. Having regard to all the facts and circumstances, but without commenting anything further on merits of the case, petition is allowed. Petitioner is admitted to regular bail on his furnishing requisite bail bonds and surety bonds to the satisfaction of the trial Court/Duty Magistrate concerned, on usual terms and conditions.

31.01.2024

Vivek

(DEEPAK GUPTA)
JUDGE

- 1. Whether speaking/reasoned?
- 2. Whether reportable?

Yes
No