

(237)

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-56063-2023
Date of Decision: 15.02.2024

RAJA

... Petitioner

Versus

STATE OF PUNJAB

...Respondent

CORAM: HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present: Mr. B.S. Bali, Advocate
for the petitioner.

Mr. Deepinder Singh Brar, Addl. DAG, Punjab.

JASJIT SINGH BEDI, J.

The prayer in the present petition under Section 439 Cr.P.C. is for the grant of regular bail in case bearing FIR No.65 dated 16.06.2020 registered under Sections 302, 201, 34 IPC at Police Station GRP Ludhiana (Railway), District Ludhiana.

2. The present FIR came to be registered at the instance of Smt. Ranju Devi wife of late Raja Rama and the same reads as under:-

“Statement of Smt. Ranju Devi wife of late Raja Ram Sawhney, resident of Street No. 2, Indira Colony, Near Railway Station, Mullanpur Dakha, District Ludhiana, aged about 35 years. Stated that I am residing at above noted address and is house wife. I have got four daughters & one son, who are aged between 12 to 16 years. My marriage took place with said Raja Ram about 17 years back. Deceased Raja Ram was residing separate from me & children with one Kusum & her family at Village Jassian, District Ludhiana since past 12-13 years. My husband didn't

come to us since past about 12-13 years. Today, said Kusum told my relatives, residing at Ludhiana, over phone that Raja Ram Sawhney has been murdered by someone near Railway Over Bridge, Ladhowal. On this, our relative Anita Devi wife of Raju Sawhney, resident of Chhoti Haibowal Diary, Ludhiana gave us intimation about murder of my husband Raja Ram Sawhney at about 9.00 A.M. On this, I alongwith my family members & relatives arrived near Railway Over Bridge, Ladhowal, G.T. Road, Ludhiana and found a dead body, lying on eastern side outside the Railway track, which I have identified as my husband Raja Ram Sawhney son of Asharfi Sawhney, who is having deep injuries in abdomen, behind centre point (dhunni), left rib & right side of private part, from which, bleeding also found. He is also found having deep injury on left eye, cut mark on lower portion & right side of his back. There exist lot of bleeding on railway track and path leading towards northern side. My husband Raj Ram has been murdered by some unknown person, who has thrown his dead body near Railway track with a motive to embezzle the same, so as it may appear a Railway accident. Hence due legal action may be taken against the accused. You have recorded my statement, read over & explained its contents, which are true & correct. Sd/- Ranju Devi.”

3. Pursuant to the registration of the FIR, Kusum and her son Raja (petitioner) were joined in investigation. They disclosed to the I.O. that they had suspicion that Vinay Kumar @ Kalia son of Panchan Sahni had committed the murder of the deceased. Based on this statement, Vinay Kumar @ Kalia was nominated as an accused in this case and arrested on 06.10.2021.

He disclosed during the course of investigation that on account of a dispute regarding property, he along with Kusum and Raja had committed the offence in question.

On the basis of the statement of Vinay Kumar @ Kalia, Kusum and the present petitioner were nominated as accused. One knife was recovered from the house of Kusum. The petitioner was arrested on 08.10.2021 and got recovered an Aactiva scooter purportedly used in the occurrence.

The report under Section 173 Cr.P.C. was initially presented against petitioner-Raja and Vinay Kumar @ Kalia. Kusum was declared a proclaimed offender. She was arrested subsequently on 02.07.2023 and a supplementary challan was submitted against her.

4. The learned counsel for the petitioner contends that he has been falsely implicated in the present case. He has not been named in the FIR. One Vinay Kumar @ Kalia was arrested and named the petitioner along with his mother Kusum as accused. The said statement was inadmissible in evidence. In fact, it is a case of blind murder. As the petitioner was a first-time offender, in custody since 08.10.2021 and only 01 out of the 29 prosecution witnesses had been examined so far, the Trial of the present case was not likely to be concluded anytime soon and therefore, the petitioner was entitled to the concession of bail.

5. A reply dated 31.01.2024 by way of an affidavit of Balram Rana, PPS, Superintendent of Police, GRP Ludhiana has been filed on behalf of the State by the learned counsel for the State. The same is taken on record.

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While referring to the reply, he contends that the petitioner and his mother Kusum in connivance with Vinay Kumar @ Kalia committed the murder of the deceased. The knife allegedly used in the occurrence came to be recovered from the house of Kusum. Therefore, the nature of the allegations levelled against the petitioner and his co-accused did not entitle him to the grant of bail. He, however, concedes that the petitioner was a first-time offender, in custody since 08.10.2021 and only 01 out of the 29 of the prosecution witnesses had been examined so far.

6. I have heard the learned counsel for the parties.

7. The veracity of the prosecution case against the petitioner and his co-accused shall be adjudicated upon during the course of the Trial. Admittedly, the petitioner is a first-time offender, in custody since 08.10.2021 and only 01 out of the 29 prosecution witnesses have been examined so far. Therefore, the Trial of the present case is not likely to be concluded anytime soon. In this situation, the further incarceration of the petitioner is not required.

8. Thus without commenting on the merits of the case, the present petition is allowed and the petitioner-Raja son of Pappu is ordered to be released on bail subject to his furnishing bail bonds and surety bonds to the satisfaction of learned CJM/Duty Magistrate, concerned.

9. The petitioner shall appear before the police station concerned on the first Monday of every month till the conclusion of the Trial and inform in writing each time that he is not involved in any other crime other than the present case.

10. If the petitioner or his family members/associates make any attempt to contact/threaten/intimidate the witnesses in the present case, the State would be at liberty to move an application for cancellation of bail granted vide this order.
11. In addition, the petitioner (or anyone on his behalf) shall prepare an FDR in the sum of Rs.50,000/- and deposit the same with the Trial Court. The same would be liable to be forfeited as per law in case of the absence of the petitioner from the trial without sufficient cause.
12. The petition stands disposed of.

15.02.2024

JITESH

Whether speaking/reasoned:- Yes/No
Whether reportable:- Yes/No

(JASJIT SINGH BEDI)
JUDGE