

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

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CRM M-61548 of 2023

Date of Decision: 15.01.2024

Bhagwan Ram @ Sethi

...Petitioner

Versus

State of Haryana

... Respondent

CORAM : HON'BLE MR. JUSTICE N.S.SHEKHAWAT

Present : Mr. Aditya Sanghi, Advocate, for the petitioner.

Ms. Sheenu Sura, DAG, Haryana.

Mr. Jasvir Singh Dhaliwal, Advocate
for the complainant.

N.S.SHEKHAWAT, J. (Oral)

1. The petitioner has filed the present petition under Section 438 of the Cr.P.C. with a prayer to grant pre-arrest bail to him in case FIR No.282 dated 07.10.2023 registered under Sections 120-B, 201, 302, 328, 34 and 506 IPC at Police Station Nathu Sarai Chopta, District Sirsa.
2. The FIR was initially registered against Rekha Rani, Subhash and Sandeep on the basis of the complaint moved by Amandeep son of Gurdayal Singh. As per the complainant, Pushpa was his sister and Sandeep was his brother. Sandeep and Rekha had performed love marriage in the year 2012 and for the last about 2 years, they were living near the milk plant. In December 2022, Rekha met Subhash son of Dharampal in a marriage and later on, they developed illicit relations. Due to this, Rekha had differences with her

husband Sandeep and she used to extend threats to her husband. In the meantime, Subhash and his friend Sandeep son of Krishan started visiting the house of his brother Sandeep. Subhash and Sandeep son of Krishan also developed good relations with his brother Sandeep (since deceased). About one month prior to the accident of Sandeep (since deceased), he had told the complainant that his wife Rekha had illicit relations with Subhash and Sandeep and they could kill him. On 04.09.2023, the said accused conspired and had wrongly shown that his brother Sandeep met with an accident. Sandeep remained unconscious for 3/4 days and later on, he died due to the injuries suffered by him. On 24.09.2023, the condition of Sandeep deteriorated and Sandeep and Rekha got him hospitalized. At about 11.00 p.m., Rekha, Subhash and Sandeep mixed some substance in the milk and served it to Sandeep. After consuming milk, his brother Sandeep became unconscious and was declared dead in day time on 25.09.2023. Later on, Rekha, Sandeep son of Krishan and Subhash forced the complainant not to get the postmortem of the body conducted and cremation of the dead body was performed. After the death of his brother, Sandeep, Rekha and Shubhash were used to chat on instagram continuously and the complainant picked the phone of accused on suspicion on 02.10.2023 and checked the instagram account and the screen shots were taken by him. In fact, Rekha and Subhash had a conversation with regard to the present occurrence as well. After 12 days of the death of Sandeep, his family members

asked Rekha about the matter between her, Sandeep and Subhash and on this Rekha denied her role and demanded her share in the land and plot. Rekha also extended threats to the other family members as well. With these broad allegations, the FIR in the present case was got registered by the complainant.

3. Learned counsel for the petitioner contends that the petitioner has not been named in the FIR nor there is any averment in the FIR, which even remotely suggests the involvement of the petitioner in the alleged crime. Learned counsel further contends that in the present case, no postmortem examination was conducted nor there is any other medical evidence with regard to the cause of death of Sandeep in the present case. Learned counsel further contends that the petitioner had no concern either with Rekha or Shubhash or Sandeep as the prosecution has failed to produce any evidence with regard to the said fact. Learned counsel further contends that even no call details have been found between the petitioner and other co-accused, namely, Rekha, Shubhash and Sandeep. He further contends that the name of the petitioner had appeared in the disclosure statement of Sandeep, co-accused and apart from the disclosure statement suffered by Sandeep, police could not find any admissible evidence against the present petitioner. He further contends that the police had tried to set up a case that some poisonous substance was injected in the body of Sandeep (since deceased). Even no evidence was collected with regard to the same also. Learned

counsel further contends that in the present case, the main accused Sandeep, Shubhash and Ravinder @ Ravi have already been arrested by the police and the custodial interrogation of the petitioner is not required. Learned counsel further contends that the petitioner was never involved in any other criminal activity and no criminal case was ever registered against him.

4. On the other hand, learned State counsel assisted by the complainant has vehemently opposed the submissions made by the learned counsel for the petitioner on the ground that the petitioner alongwith his co-accused had caused the murder of Sandeep (since deceased) and even keeping in view the gravity of the offence, the present bail application deserves to be dismissed. Learned State counsel also submits that as per the CDR of the petitioner and other co-accused, the petitioner had talked to Sandeep and Ravinder @ Ravi, co-accused. During the period of the occurrence, the tower location of the petitioner and other co-accused was also of the same place at several occasions.

5. I have heard learned counsel for the parties and perused the record.

6. It is apparent that the petitioner was not named in the present case. Even though, it is stated to be a case of homicidal death, but the prosecution could not place on record any medical evidence to prove the same. Even, the postmortem examination on the dead body was not conducted and the FIR was got registered by the complainant

after several days of the occurrence. The main accused Sandeep, Shubhash and Ravinder @ Ravi have already been arrested by the police and custodial interrogation of the petitioner may not be required, at this stage.

7. Consequently, without commenting any further on the merits of the case, the present petition is allowed. The petitioner is granted concession of anticipatory bail, subject to the conditions as provided under Section 438(2) of the Cr.P.C. It will be open for the Investigating Officer to call the petitioner to join investigation, if so required, by issuing a written notice in this regard and he shall abide by the conditions mentioned in Section 438(2) of the Cr.P.C.

15.01.2024	(N.S.SHEKHAWAT)
amit rana	JUDGE
Whether reasoned/speaking	: Yes/No
Whether reportable	: Yes/No