

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-61734-2023

Reserved on: 15.02.2024

Pronounced on: 19.02.2024

2024:PHHC: 022997

HARIOM

.... PETITIONER

Vs.

STATE OF HARYANA

.... RESPONDENT

CORAM: HON'BLE MR JUSTICE DEEPAK GUPTA

Argued by: - Mr. Pradeep Virk, Advocate,
for the petitioner.

Mr. Sumit Jain, 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.69 dated 13.03.2023 registered under Sections 302/201 IPC at Police Station Sadar Gohana, District Sonapat.

2. Status report dated 14.02.2024, by way of an affidavit of Somvir Singh, HPS, Assistant Commissioner of Police, Gohana-II, Sonipat, has been filed on behalf of the respondent-State of Haryana and the same is taken on record.

3.1 As per prosecution version, on 11.06.2021, information was received by the police that Rinku son of Vishnu Dutt, resident of village Sikandarpur Majra, District Sonipat was brought to the hospital having suffered injuries. Police reached the hospital, but no person/witness was found there. On 12.06.2021, police again visited the hospital, where Poonam wife of deceased Rinku met the police officials and made statement, as per which her husband i.e. deceased Rinku was habitual of

consuming liquor. She and her husband were residing separately from her parents-in-law. On 11.06.2021, her husband had gone to meet his parents. She went there to call him. When she was returning along with her husband-Rinku, Rinku fell down in metalled street in front of the house and suffered injuries on backside of his head. Her father-in-law shifted Rinku to PGI, Khanpur Kalan, where doctor declared him brought dead. She stated that her husband had died having sustained injuries due to fall in the street under influence of liquor and that nobody was at fault and so, she did not want any action to be taken. Said statement made by Poonam was supported by Vishnu Dutt-father of the deceased and also by Savitri wife of Krishan.

3.2 As no offence was found to be made out in view of the aforesaid statement, DDR No.12 dated 12.06.2021 was entered in Police Station Sadar, Gohana. Inquest report under Section 174 CrPC was conducted. However, the postmortem examination of the dead body of the deceased revealed as many as 19 external injuries on his person. Cause of the death was opined to be head injury coupled with manual strangulation. All the injuries were opined to be ante-mortem in nature, recent in duration and caused by blunt force and that manner of death was homicidal. The Viscera was preserved for chemical analysis and histopathological examination. After receiving the reports from the FSL, opinion of the Board of Doctors was obtained, which confirmed the cause of the death to be head injury coupled with manual strangulation and that manner of death was homicidal. In these circumstances, offence under Section 302 IPC was found to have been committed and FIR was accordingly registered.

3.3 During investigation, statements of eye-witnesses namely Vishnu Dutt (father of the deceased), Kela Devi (mother of deceased)

besides their neighbour Man Mohan son of Rohtash were recorded. The parents Vishnu Dutt and Kela Devi disclosed that their son Rinku was habitual drunkard; and that on 11.06.2021 at about 10:00 PM, Rinku had come under the influence of liquor. They had asked him to go to his house. In the meantime, their other son Hariom (petitioner) also came in the street, where altercation took place between the two brothers and out of anger, Hariom (petitioner) had inflicted injuries to Rinku, who fell unconscious. He was shifted to City Hospital and declared brought dead. They also stated that at that time, they did not know about the cause of death.

3.4 Hariom (petitioner) was arrested on 15.03.2023. On interrogation, he suffered disclosure statement admitting his guilt. He disclosed about the altercation between him and the deceased, during which deceased had caught his private parts and that with a view to get the same released, he had pressed the throat of Rinku. He also disclosed that he then took out a wooden *fawda* and inflicted injuries with the same on the head and other body parts of Rinku and later on, burnt the wooden *fawda*. Section 201 IPC was added. Poonam (wife of the deceased) had already had already died in the meantime on 05.03.2023.

3.5 After completion of investigation, final report under Section 173 CrPC was filed. Charges were framed on 19.07.2023. Out of 22 witnesses cited by the prosecution, 7 have already been examined and the next date of hearing is 11.03.2024.

4. It is submitted by Id. counsel that petitioner has been falsely implicated after registering the FIR more than 1 year and 9 months of delay from the date of occurrence. All the material witnesses have turned hostile.

Case of the prosecution is based on the disclosure statement of petitioner,

recorded during police custody, which is not admissible in law; that petitioner is in custody since 15.03.2023; that nothing was recovered from him; that trial may take long time to conclude and so, he be granted bail.

5. Ld. State counsel opposed the petition by pointing out towards gravity of offence and that petitioner in his disclosure statement admitted the guilt. However, it is conceded that the material witnesses of the petitioner namely Vishnu Dutt and Kela Devi, parents of the petitioner as well as that of the deceased, have not supported the prosecution.

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

7. Initial version of the prosecution was that Rinku died due to fall on the surface under the influence of liquor and had sustained injuries. This version is based on the statement of Poonam, wife of the deceased, who has already expired.

8. FIR has been registered after 1 year and 9 months of the occurrence, based upon the postmortem report and the opinion given by the Board of Doctors, as per which cause of death of Rinku is head injury coupled with manual strangulation and that it was a case of homicide.

9. In the investigation, the parents of the deceased namely, Vishnu Dutt and Kela Devi are stated to have disclosed to the police that it is their other son i.e. Hariom (petitioner), who had caused injuries to the deceased, resulting in his death. However, Kela Devi as well as Vishnu Dutt, during their testimony before the Court as PW2 and PW3 respectively, have not supported the prosecution case at all and were to be declared hostile, as is evident from their statements, copies of which have been placed on record.

10. PWs Ramesh son of Lakhmi Chand, and Man Mohan son of Rohtash have also not supported the prosecution version as is evident from the copies of their statements placed on record. Prosecution is, thus, left with disclosure statement of the petitioner, which admittedly was recorded in police custody, after arresting the petitioner. It has been admitted by PW5 HC Amin, the witnesses to the disclosure statement that no recovery was effected from the petitioner pursuant to his disclosure statement.

11. Having noticed the aforesaid facts and circumstances, but without commenting anything further on merits of the case, this Court is of the view that no purpose shall be served by keeping the petitioner detained, who is already in custody since 15.03.2023 and as trial may take time to conclude. Consequently, 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, by observing usual terms and conditions.

19.02.2024
Vivek

(DEEPAK GUPTA)
JUDGE

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| 1. Whether speaking/reasoned? | Yes |
| 2. Whether reportable? | No |