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

CRM-M-33003-2023 (O&M)

Date of decision : 31.01.2025

Jamshed

.....Petitioner

versus

State of Haryana

..... Respondent

CORAM : HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present :- Mr. Edward Augustine George, Advocate
for the petitioner.

Mr. Tanuj Sharma, AAG, Haryana.

Mr. Rakesh Nehra, Senior Advocate with
Mr. Reetesh Kumar, Advocate and
Mr. Chirag Kundu, Advocate, for the complainant.

RAJESH BHARDWAJ, J.

1. Present petition has been filed by the petitioner praying for grant of regular bail in case FIR No.68 dated 29.04.2018, under Sections 302, 346, 120-B of IPC, 1860, registered at Police Station Rozka Meo, District Nuh.
2. Succinctly facts of the case are that the FIR in the present case was registered on the statement of complainant namely, Sakharup Khan. It was alleged that the marriage of his brother, Sameem Ahamad (deceased) was solemnized with Arseena in the year 2016. However, the differences arose between both of them after the marriage and hence, Arseena returned to her parental home. Thereafter since 2016, she was living separately from his brother. In the meantime, his brother Sameem Ahmad (deceased) happened to meet Rukmina and he solemnized marriage with her on 24.02.2018 as per the Muslim rites. Apprehending danger to their life, they sought protection from this Court and FIR was registered against his brother Sameem and family members on the allegations of kidnapping Rukmina. On 21.04.2018 his brother Sameem left home, however, he did not return. On 22.04.2018, he talked with his brother Tanveer who informed him that Sameem was in



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Sohana. At 01:17 AM, two calls were received from the phone of Sameem continuously but as he was asleep, he could not attend the same. Thereafter, at 01:57 AM, he received the call from Rukmina's brother Ashif and on receiving the call, the person speaking disclosed his identity as Ashif and told that Sameem was in their captivity. On his asking, he made Sameem to talk to him when Sameem told him in a nervous voice that he was in their custody and he was apprehending danger to his life and then, the phone was disconnected. He tried to contact him again but the phone was switched off. On 25.04.2018, they made a complaint to the police which was forwarded to Police Station Tabru for further proceedings. On 28.04.2018 a news was published in the newspaper about finding an unknown dead body in the jurisdiction of Police Station Rojka Meo wherein the photo of the deceased was published. They recognized the photo to be of their brother Sameem. On reaching the police station, they found that the cremation of the dead body was already performed. He suspected Ashif, Irshaad, Roshan, Mun Sharif, Rukmina, Kareem Khan, Jamshed (petitioner), Arif and others had committed the murder of his brother Sameem in conspiracy with each other. Request was made to take legal action against the culprits. On registration of the FIR, investigation commenced. The postmortem of the dead body was conducted with the name unknown on 25.04.2018. Petitioner was arrested on 19.10.2022. He approached the learned trial Court praying for the grant of bail however, the same was declined vide order dated 04.05.2023. Hence, being aggrieved, petitioner is before this Court praying for grant of bail.

3. Learned counsel for the petitioner has contended that the petitioner has been falsely and frivolously implicated in the present case. He



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submits that neither the petitioner had any relation with the deceased nor there was any motive with him, thus, it was a case of blind murder. He submits that during the investigation, no incriminating evidence was found against him and the polygraph test also failed to prove any complicity of the petitioner. However, when the investigation was handed over to the State Crime Branch, then the petitioner was declared proclaimed offender in violation of the established procedure of law. He further submits that co-accused, namely, Wali Mohammad @ Vali Mohammad has already been enlarged on bail by this Court vide order dated 15.01.2025 and prior to that he remained on interim bail w.e.f. 14.02.2024. He submits that the petitioner is behind bars since 19.10.2022, however, there is no material progress in the ongoing trial. He submits that the petitioner has no criminal antecedents as he has never been involved in any other criminal case. He, thus, submits that in the overall facts and circumstances, when the co-accused has already been granted bail, the petitioner deserves to be granted bail.

4. Learned Senior counsel for the complainant has vehemently opposed the submissions made by learned counsel for the petitioner. He has submitted that the petitioner has played an active role. He has submitted that though the case of the prosecution is based on circumstantial evidence however, the petitioner has been specifically named in the FIR with other co-accused for committing the murder of Sameem. He submits that the weapon of offence also could not be recovered. It is also submitted by learned Senior Counsel that the petitioner was declared as proclaimed offender as he remained at large. He further submits that petitioner is the main accused, who has been specifically named in the FIR and as such he does not deserve the



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concession of bail and thus, the petition being devoid of any merits, deserves to be dismissed.

5. Learned State counsel has also opposed the submissions made by learned counsel for the petitioner. He has drawn the attention of this Court to the status report filed. He has submitted that petitioner Jamshed was cousin brother of Rukmina and he was nurturing grudge against Sameem, who had married Rukmina after enticing her on 24/25.03.2018. He has further stated that petitioner Jamshed alongwith his brothers and family members gave severe beatings to Sameem and killed him. He has submitted that the name of the petitioner was specifically mentioned in the FIR and the petitioner has not got the knife used in the crime recovered and hence, Section 201 IPC was added. It is submitted that the trial of the present case is in progress and out of total 43 prosecution witnesses, 11 witnesses have already been examined. He has not denied the fact that the co-accused, namely, Wali Mohammad @ Vali Mohammad has already been granted regular bail by this Court and prior to that he remained on interim bail. He further states that as the petitioner in connivance with the other accused has committed the murder of Sameem and as such he not entitled to be released on bail.

6. This Court has heard counsel for the parties and perused the record with their able assistance. As deciphered from the arguments raised and on perusal of the record, the deceased had left home on 21.04.2018 and thereafter, the news regarding his death was published on 28.04.2018. The SIT was constituted and polygraph test was also conducted. Petitioner has been alleged to have given knife blows to the deceased, but the knife alleged to have been used in the crime has not been recovered. However, this Court

while dealing with the bail petition would not go into the merits of the case. There is nothing on record to show that the petitioner has any criminal antecedents. Out of 43 prosecution witnesses, 11 witnesses have been examined. Admittedly, co-accused of the petitioner, namely, Wali Mohammad @ Vali Mohammad has already been granted regular bail by this Court vide order dated 15.01.2025 passed in CRM-M-58169-2023.

7. The veracity of the allegations would be assessed only after the conclusion of the trial and on the appreciation of evidence to be led by both the parties before the trial Court. This Court would refrain itself from commenting anything on the merits of the case. The trial of the case will take sufficient long time. Keeping in view the arguments raised by both the sides and perusing the record, this Court is of the opinion that learned counsel for the petitioner succeeds in making out a case for grant of regular bail to the petitioner.

8. Accordingly, the present petition is allowed and the petitioner is ordered to be released on bail on her furnishing bail/surety bonds to the satisfaction of the concerned trial Court/Duty Magistrate.

9. In view of the fact that the main petition has been decided today, application i.e. CRM-16807-2024 for the grant of interim bail to the petitioner, is dismissed.

10. Nothing said herein shall be treated as an expression of opinion on the merits of the case.

31.01.2025

sharmila

(RAJESH BHARDWAJ)
JUDGE

Whether speaking/reasoned

:

Yes/No

Whether reportable

:

Yes/No