



**222-2 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

**CRM-M-58169-2023 (O&M)
Date of decision : 15.01.2025**

Wali Mohammad @ Vali Mohammad

.....Petitioner

versus

State of Haryana

..... Respondent

CORAM : HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present :- Mr. R.S. Cheema, Senior Advocate with
Mr. S.S. Kang, Advocate and
Mr. Rajeev Godara, Advocate
for the petitioner.

Mr. Kirpal Singh Thakur, AAG, Haryana.

Mr. Rakesh Nehra, Senior Advocate with
Mr. Reetesh Kumar, Advocate
Mr. Sauhard Singh, Advocate and
Mr. Arjun Singh, 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 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 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 receiving an unknown dead body in the jurisdiction of Police Station Rojka Mev 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, 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. During the investigation, supplementary statement of the complainant was recorded on 15.05.2018 wherein the name of the petitioner was also mentioned as one of the accused. Thereafter co-accused Ashif was interrogated and he made



a disclosure statement about the petitioner on 17.06.2018. Petitioner was arrested on 30.11.2022. He approached the learned trial Court praying for the grant of bail however, the same was declined vide order dated 19.09.2023. Hence, being aggrieved, petitioner is before this Court praying for grant of bail. This Court after hearing of learned Senior counsel released the petitioner on interim bail vide its order dated 14.02.2024. Hence, petitioner is on interim bail since then.

3. Learned Senior Counsel opening his arguments has contended that the petitioner has been falsely and frivolously implicated in the present case after due deliberations. He has submitted that as per case of prosecution, the deceased left home on 21.04.2018 and thereafter, from the newspaper dated 28.04.2018, complainant found that his brother Sameem has been murdered. He submits that from the reading of the FIR, it is apparent that the petitioner was never named in the FIR. It is submitted that the supplementary statement of the complainant was recorded after about a month i.e. on 15.05.2018 wherein for the first time the complainant named the petitioner also as one of the accused in committing the murder of his brother. Thereafter, the confessional statement of co-accused Ashif was recorded by the investigating agency on 17.06.2018 who also made a disclosure about the involvement of the petitioner. It is vehemently contended that the petitioner has no relation whatsoever with the deceased or the family of Rukmina and others. He has no motive in committing the alleged murder. He has submitted that after the challan having been filed, the SIT was constituted and the investigation was transferred to the SIT for further investigation. It is submitted that even polygraph test of the petitioner was carried out. He submits that no material regarding the complicity of the petitioner as alleged was found by the SIT. The polygraph



test qua the petitioner was also found negative. It is also submitted that the FIR in the present case has also been registered after an unexplained delay of about five days. He further submits that petitioner was arrested on 30.11.2022 and this Court finding a *prima facie* case released him on interim bail vide order dated 14.02.2024. He submits that petitioner has committed no violation of the terms and conditions of the interim bail granted. He thus, vehemently contends that the petitioner in the present case has been arrayed as an accused on the basis of presumptions and assumptions. He submits that the prosecution has miserably failed in producing any credible circumstantial evidence against the petitioner for his involvement in the case and hence, the interim bail granted to the petitioner deserves to be made absolute during the pendency of the trial.

4. Learned Senior counsel for the complainant has vehemently opposed the submissions made by learned Senior 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, from the investigation carried out, it is crystal clear that the petitioner in conspiracy with other co-accused had committed a heinous offence of committing the murder of Sameem. It is submitted that the car of the petitioner was used in abducting the deceased and it is the petitioner who had given knife blow to the deceased. He submits that the weapon of offence is also not recovered. It is also submitted by learned Senior Counsel that the petitioner was declared as proclaimed offender as he remained at large and the FIR under Section 174-A of IPC was registered against him. He further submits that petitioner is the main accused and he does not deserve the 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 Senior Counsel for the petitioner. He has drawn the attention of this Court to the status report filed. He submits that co-accused Ashif was arrested on 14.06.2018. As per the order dated 15.11.2018 issued by the Director General of Police, the investigation of this case was sent to the State Crime Branch, Gurugram. The call detail records of the deceased were obtained from the service providers. Thereafter, accused namely, Roshan, Karim Khan, Sarjeet, Yasin, Rukmeena, Wali Mohd. and Jamshed were joined in the investigation. Their polygraph test was conducted and their response were found to be truthful. Petitioner was declared as proclaimed offender on 12.10.2022 and hence, FIR No.286 dated 16.10.2022, under Section 174-A IPC was registered against him in Police Station City Nuh. He has submitted that petitioner was arrested in FIR No.286 dated 16.10.2022 by the local police. He was thereafter, taken on production warrants by the State Crime Branch and was joined in the investigation in the present case. He got recovered one mobile phone which was used in the commission of crime. The CDR of accused Jamshed, Aarif and Sameem were obtained and the mobile phone used by petitioner Wali Mohd was also recovered. The accused persons were found to have conversations with each other as per the call detail records. It is submitted that on being interrogated, petitioner made a disclosure statement that he caused injuries in the neck of the deceased with a knife. However, petitioner did not get recovered the knife used by him in the commission of crime and hence, Section 201 IPC has been added in the present case. He submits that petitioner had taken the co-accused in his Alto Car at the place of occurrence and thereafter, he gave knife blow to the deceased. The car used by the petitioner was sold to the scrap dealer. He submits that no



ground is made out to grant bail to the petitioner.

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 FIR did not contain the name of petitioner however, his name surfaced in the present case on the supplementary statement made by complainant on 15.05.2018. Thereafter, co-accused Ashif also made a disclosure statement about the involvement of petitioner recorded on 17.06.2018. The SIT was constituted and polygraph test has also been conducted. It has been submitted before this Court that no evidence was found regarding the involvement of petitioner by the SIT and the polygraph test also failed to prove any guilt of the petitioner. However, learned State counsel relied upon status report and submitted that in the polygraph test response of the petitioner was found to be truthful. Petitioner has been alleged to have given a knife blow on the basis of his disclosure statement. However, this Court while dealing with the bail petition would refrain itself from commenting anything on the analysis of the evidences relied upon by both the sides. Petitioner is already on interim bail and there is nothing on record to show that he has ever misused the concession of interim bail granted to him. Out of 43 prosecution witnesses, 11 witnesses have been examined.

7. The trial of the case will take sufficiently long time. Thus, keeping in view the overall facts and circumstances of the case, this Court is of the opinion that learned Senior counsel for the petitioner succeeds in making out a case for grant of regular bail. Accordingly, interim bail granted vide order dated 14.02.2024 is made absolute and the petitioner is ordered to be released on bail on his already furnished bail/surety bonds to the



satisfaction of the concerned trial Court/Duty Magistrate, the life of which is extended till the decision of the trial. Nothing said herein shall be treated as an expression of opinion on the merits of the case.

15.01.2025
m.sharma

(RAJESH BHARDWAJ)
JUDGE

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