
(2020) 10 P&H CK 0092

In the Punjab And Haryana At Chandigarh

Case No : Criminal Miscellaneous Petition (M) No. 31988 Of 2020(O&M)

Kamal

APPELLANT

Vs

State Of Haryana

RESPONDENT

Date of Decision : 14-10-2020

Acts Referred:

Indian Penal Code, 1860 — Section 34, 120B, 201, 302, 364A

Arms Act, 1959 — Section 25

Code Of Criminal Procedure, 1973 — Section 173

Citation : (2020) 10 P&H CK 0092

Hon'ble Judges : Anil Kshetarpal, J

Bench : Single Bench

Advocate : Kulwant Singh Dhanora, Chetan Sharma, Ankit Aggarwal

Final Decision : Allowed

Judgement

Anil Kshetarpal, J

Hearing of the case was held through video conferencing on account of restricted functioning of the Courts.

The petitioner-Kamal son of Om Parkash prays for grant of bail pending trial in a criminal case arising from FIR No.432, dated 30.12.2019, registered under Section 364-A/302/201/34/120-B IPC and Section 25 of the Arms Act, 1959, at Police Station Nissing, District Karnal.

In a nutshell, the case of the prosecution has been noticed by the learned Additional Sessions Judge, Karnal, in paragraphs 3, 4 and 5 of its order dated 19.08.2020, which are extracted as under:-

"3. It is the case of the prosecution that present FIR stood registered on the complaint of Darshan Lal son of Diwan Chand resident of Aara Wali Gali Ward No.9 Nissing. Complainant revealed these facts to the police that he was running a shop of hardware. On 29.12.2019 at about 830 AM in the morning one boy who was keeping his face covered came at the house of the complainant situated near

his shop. That boy enquired about availability of some material i.e Palli. Complainant asked that boy to come at the shop. After some times complainant opened his shop and kept waiting for that boy till 9.30 AM. In the meanwhile victim Vishav Bharti @ Vishu, aged 30 years son of the complainant came at the shop to sit there. Complainant returned to his home to take bath. But when at about 10.00 AM complainant came back at the shop, his son was not there. Complainant kept making calls to his son at his mobile phone but no response was received.

4. To the surprise of complainant when at about 12.45 PM his neighbour Buta Singh told to the complainant that he had received a call on his mobile phone from the mobile phone of Vishav Bharti @ Vishu, who disclosed that he had been kidnapped and assailants were demanding sum of Rs.5 Lakhs and they were intimidating in the name of Krishan Dadupur. Complainant then expressed his helplessness to arrange sum of Rs.5 Lakhs since it was a Sunday. In the meanwhile Vishu talked to his father on phone and asked him to bring sum of Rs.2.50 Lakhs lying in the home and also asked his father not to disclose said fact to the police because he apprehend danger to his life. Vishu asked complainant to come alongwith money at village Pundrak

5. As such, Darshan Lal and his neighbour Buta Singh had gone to village Pundrak along with sum of Rs.2.50 Lakhs to be given to the kidnappers. In the meanwhile Buta Singh received a call on his phone. Kidnappers asked them to come at village Uchana and again phone was received and this time caller asked them to come near hotel Vivan. They reached there but again caller asked them to come opposite to the sugarcane fields and directed them to keep the money near a Toot Tree. Complainant obeyed said command and came back. He sat in his vehicle. In the meanwhile Vishu called asking him to go back and told that kidnappers would release him after taking the money. Complainant came back. But thereafter neither his son Vishu nor any call was received from him and as such matter was reported to the police regarding of victim Vishu."

Learned counsel for the petitioner contends that the petitioner is not named in the FIR and he is sought to be indicted as an accused on the statement of Amandeep, a co-accused. He further submits that there is no recovery from the petitioner.

Sh. Chetan Sharma, Assistant Advocate General, Haryana, has pointed out that the petitioner was instrumental in arranging the mobile phone for making ransom call.

Sh. Ankit Aggarwal, who appeared for the first informant has contended that Vishu has been murdered in a pre-planned manner.

This court has heard learned counsel for the parties and perused the paper book.

Attention of the court has not been drawn to any forensic evidence proving involvement of the petitioner. Still further, the petitioner is sought to be indicted

as an accused on the statement of a co-accused in policy custody which is not admissible in evidence.

Sh. Chetan Sharma, Assistant Advocate General, Haryana, on instructions from ASI Satbir, has informed the Court that the petitioner is not a person with criminal antecedents.

On completion of the investigation, the police has already submitted its report under Section 173 Cr.P.C. The conclusion of the trial is likely to take time.

Without commenting on the merits of the case and keeping in view the fact that the petitioner is in custody and conclusion of the trial is likely to take time, the petitioner is directed to be released on regular bail subject to furnishing of adequate surety to the satisfaction of the Chief Judicial Magistrate/Duty Magistrate, concerned.

Accordingly, the present petition is allowed with the aforesaid directions.