

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

**CRM No. 16797 of 2015 in/and
CRM-M-7987 of 2015**

Date of decision:- August 11, 2015

Joginder @ Nanha

.....Petitioner...

Vs.

State of Haryana and another

....Respondents...

CORAM:- HON'BLE MR. JUSTICE JASPAL SINGH

Present:- Mr. Lokesh K. Malik, Advocate,
for the petitioner.

Mr. N.K. Sharma, DAG, Haryana.

JASPAL SINGH, J.

CRM No. 16797 of 2015

This is an application under Section 482 of the Code of Criminal Procedure (for short, 'Code') for restoration of bail application of petitioner, which was dismissed for non-prosecution on May 05, 2015.

Heard.

Though, there is no provision in the Code for restoration of petition for bail, which was dismissed in default but while exercising inherent powers envisaged under Section 482 of the Code, application is allowed in the interest of justice, keeping in view

the various averments made in the application, supported with an affidavit of Mr.Lokesh K. Malik, Advocate.

Accordingly, petition is restored to its original number and allowed to be heard today i.e. on August 11, 2015.

Main case

Instant petition has been preferred under Section 439 of the Code of Criminal Procedure (for short, 'Code') by Joginder @ Nanha, seeking bail, in case FIR No. 680, dated 23.07.2014, under Sections 302, 201 and 34 IPC, at Police Station Chandni Bagh, Panipat.

Contention of learned counsel for petitioner is that, petitioner has been falsely implicated in instant case and he has nothing to do with regard to missing of Dheer Singh (deceased). The only evidence collected by investigating agency is in the shape of statement of Surinder Kumar, recorded under Section 164 of the Code (Annexure P-2), which is otherwise not admissible in evidence. His statement also does not pin-point any role played by petitioner, which is otherwise liable to be ignored and disbelieved on the grounds (i) that Surinder Kumar is a resident of Village Atta, District Panipat whereas in his statement, he has shown himself to be resident of Vikash Nagar, Panipat; (ii) that as per his version petitioner was having illicit relation with Ms. Suman wife of Dheer Singh but it cannot be accepted in view of the fact that Ms. Suman is almost double in age of petitioner; (iii) and that four persons on a single motorbike cannot carry a dead body to canal in mid night by

crossing four police post falling on the way. As such, statement of Surinder Kumar is nothing but a bundle of lies and cannot be relied upon. In fact, petitioner has been implicated in the instant case, at the instance of Surinder Kumar, who was living in the neighborhood of main accused-Suman and intended to purchase her house for ₹1 lac only whereas petitioner, who is a commission agent by profession and is residing in the vicinity, got struck sale transaction in favour of Sureshpal, resident of Village Dahar, District Panipat on August 08, 2014 for ₹6 lacs. Petitioner is in custody since August 12, 2014. Moreover, disposal of challan would take sufficient long time. Thus, petitioner deserves concession of bail.

3. Per contra, learned State counsel has strongly opposed grant of bail to petitioner and has submitted that there is sufficient evidence against him showing his involvement. Co-accused of petitioner have already suffered statements admitting their involvement in the murder of Dheer Singh as well as disposing of his dead body in the canal. There is also an extra-judicial confession suffered by one of the accused namely Sonu before Surinder Kumar, as is evident from his statement recorded under Section 164 of the Code. He, accordingly, prayed for dismissal of petition.

4. This Court has given an anxious thought to the aforesaid submissions made by learned counsel for parties and has perused the records available.

5. There are serious and specific allegations against the petitioner that he was having illicit relation with his co-accused

Suman, who is none else but the wife of Dheer Singh, who is alleged to have been eliminated. At this stage, it cannot be said that statement of Surinder Kumar carries no evidential value or that petitioner has been falsely implicated in the instant case, at his instance. Statement of Surinder Kumar, and disclosure statements suffered by co-accused of petitioner clearly points out the role played by petitioner in the commission of murder of Dheer Singh and disposing of his dead body by way of throwing the same in canal. As such, he does not deserve the concession of bail. Accordingly, petition stands dismissed.

August 11, 2015
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**(JASPAL SINGH)
JUDGE**