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**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH****CRM-M-9241 of 2014****Date of decision: December 04, 2015**

Dharamvir

.....Petitioner

Versus

Ranjeet and others

.....Respondents

CORAM: HON'BLE MRS. JUSTICE SABINA**Present:** Mr. Siddharth Sharma, Advocate for
Mr. Sunil Panwar, Advocate
for the petitioner.Mr. Rajesh Bhateja, Advocate
for respondents No.1 and 2.

Ms. Mahima, AAG Haryana.

SABINA, J

Petitioner has filed this petition under Section 439 (2) of the Code of Criminal Procedure, 1973 seeking cancellation of bail granted to respondents No.1 and 2 by the trial Court, in FIR No.34 dated 16.03.2013, under Sections 302, 201/34 and 120-B of Indian Penal Code, 1860, registered at Police Station Nagina, District Mewat.

I have heard learned counsel for the parties and have gone through the record available on the file carefully.

Trial Court vide order dated 13.02.2014, while granting bail to respondents No.1 and 2, has held as under:-

"I have gone through the detailed facts alleged in the bail application as well as reply filed by the prosecution. One of the most important factor of this case is that Panchayat directed to the complainant or accused either party to pay

Rs.2,50,000/- of the pipeline cost. Even if this fact was not accepted by the accused persons, how it could be presumed that instead of paying of Rs.2,50,000/- to the other party, why they engaged a professional killer for paying Rs.2-3 lacs. When the alleged bone of contention was going to be settled for an amount of Rs.2,50,000/-. It could not be digested that they had to pay the Rs.3,00,000/- or Rs.4,00,000/- to engage a professional killer to kill Jivan Lal Saini. Moreover arrest of the accused persons is made on 18.10.2013 i.e. more than after 6 months period and one Akhtar introduced Ayazu on 9.10.2013 for the first time who disclosed the name of the accused persons. The investigation revealed that it was a case under Sections 279/304 A IPC on the basis of Scientific Investigation conducted by Sh. Vinod Kumar, Member of Forensic Science Unit (MFSU), Palwal. But certainly after long period this was changed on the basis of statement of Ayazu who implicated accused persons on the basis of conversation between him and the accused persons regarding murder of Jivan Lal Saini. Akhtar remained silent for about 4 months period despite knowing that Ayazu had named before him other accused persons. Extra-judicial confession is certainly weak type of evidence and the tape recorded version is subject to strict proof and identification of accurate voice is difficult then visualized identification. The Court has to see certain cautions while passing a conviction purely on the identification of voice. Reliance has been placed on this point by the authority of Hon'ble Supreme Court of India reported in 2011 (3) RCR (Criminal) page 533 case titled as Nilesh Dinkar Paradkar vs. State of

Maharashtra.

The custody of the accused persons is since 18.10.2013. Investigation is almost complete. The role of the accused persons if any would be determined in the commission of offence only after prosecution leads evidence and the alleged conversion recorded in the form of C.D. will be produced during the course of trial of the case. Trial would take long time and custody of the accused is about 4 months period. Hence, when there is no direct evidence of the involvement of accused persons. Without further commenting on the merit of the case, I think it is a fit case to grant bail to both the accused persons on furnishing bail bond and surety bond to the tune of Rs.50,000/- each with one surety in the like amount to the satisfaction of this Court. Requisite bail bond and surety bond furnished which is accepted and attested. Personal bond attested at jail gate. Released or be issued immediately. Accused be released, if they are required in any other case. Papers be tagged with the main case file and file be put up on 6.3.2014 the date already fixed."

The reasons given by the learned Additional Sessions Judge, while granting bail to respondents No.1 and 2, are sound reasons and call for no interference.

Dismissed.

(SABINA)
JUDGE

December 04, 2015
mahavir