

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

***CRM No.M-171 of 2016
Date of decision : 28.03.2016***

Sunil

... Petitioner

Vs.

State of Haryana

... Respondent

CORAM: HON'BLE MR. JUSTICE TEJINDER SINGH DHINDSA.

Present: Mr. Lekh Raj Sharma, Advocate for the petitioner.

Mr. Anmol Malik, AAG, Haryana.

....

TEJINDER SINGH DHINDSA, J.

CRM No.9717 of 2016:

Application is allowed as prayed for. Copy of the challan document is taken on record at Annexure P-3. A complete copy of the same already stands furnished to learned State counsel.

Application is disposed of.

Main case:

Petitioner seeks benefit of regular bail pending trial in case FIR No.87 dated 17.03.2015, under Sections 302/120-B IPC, registered at Police Station Hathin, District Palwal.

Counsel for the parties have been heard.

FIR came to be registered on the statement of Jagdish. Deceased is Hemraj i.e. son of the complainant. Hemraj was stated to be working as a Clerk with Shri Bijender Gautam, Advocate. Complainant's version is that on 16.03.2015, his son as usual had gone to the Court at Hathin for work and had not returned to the house. Upon a telephonic call having been placed by the complainant to Hemraj, it is alleged that Hemraj informed his father that he was in the house of the present petitioner along with Jugan, Vikas and 2-3 other boys. Thereafter, even brother of deceased,

namely, Mahender is stated to have given a telephonic call to Hemraj and was informed that he would be reaching home within 10 minutes. Hemraj, however, is stated to have not returned on 16.03.2015. On the following date i.e. on 17.03.2015, the body of Hemraj was found to be hanging in a cottage. Against such backdrop, complainant alleged that his son had been beaten up under a conspiracy hatched between the present petitioner and other co-accused and thereafter has been killed.

The petitioner was arrested on 19.03.2015 and as per prosecution version, a rope was allegedly recovered from him.

During the course of arguments, it has gone uncontroverted that the piece of rope made of cloth having been sent to FSL, the report has since been received and no traces of skin has been found either on the rope recovered from the present petitioner or from the cloth rope.

Counsel appearing for the petitioner has also adverted to the entire challan document to assert that during the course of investigation, no evidence has been collected in the light of any call record details between the complainant and the deceased, Hemraj pertaining to 16.03.2015 as also of the call records between Bijender Gautam, Advocate and the complainant pertaining to 17.03.2015.

Entire prosecution version hinges on a telephonic conversation that allegedly took place between the deceased, Hemraj and the complainant and on the basis of the same, the complainant having cast a suspicion and doubt on the petitioner and other co-accused to have killed Hemraj by hatching a conspiracy. Apparently, material link evidence in the form of call records is missing in the present case.

The petitioner is in custody since 19.03.2015. In view of the

length of incarceration already suffered and in the light of observations made herein above, the petitioner is held entitled to the benefit of bail.

Petition is allowed. Petitioner be enlarged on bail subject to the satisfaction of the Chief Judicial Magistrate/Duty Magistrate, Palwal.

It is clarified that the observations made in this order are confined only as regards considering the prayer of the petitioner for grant of bail and would have no bearings on the merits of the case.

Disposed of.

28.03.2016

harjeet

**(TEJINDER SINGH DHINDSA)
JUDGE**