

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

**CRM No.M-511 of 2017 (O&M)
Date of Decision: 07.04.2017**

Manoj

... Petitioner

Versus

State of Haryana

... Respondent

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

Present:- Mr. Bipan Ghai, Sr. Advocate with
Mr. Paras Talwar, Advocate for the petitioner.

Mr. Satish Saini, DAG, Haryana.

Mr. Jitender Dhanda, Advocate for the complainant.

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TEJINDER SINGH DHINDSA, J.

This order shall dispose of the instant petition filed under Section 439 Cr.P.C. seeking benefit of regular bail to the petitioner in case FIR No.60, dated 19.01.2016, under Sections 302/364/420/379-B/34 IPC, registered at Police Station Sadar Hisar, District Hisar.

Counsel for the parties have been heard at length.

FIR came to be registered on the statement of Sudesh Kumar. Complainant asserted that on 19.01.2016, while he along with his paternal uncle Kuldeep (since deceased) were sitting in the office then during the afternoon hours, 3-4 unidentified young boys came in a white colour Maruti Swift Dzire car and called out for Kuldeep. Complainant further stated that after sometime, upon hearing a noise, he came out of the office and noticed that such boys had forcibly put Kuldeep in the vehicle and drove him away. The last number of vehicle was identified as 0009. The complainant thereafter along with certain

other neighbours upon proceeding to Village Kaimri found Kuldeep lying on the road and who was then taken to hospital at Hisar where he was declared dead. As per initial version of the complainant, unidentified boys had kidnapped Kuldeep and had thereafter killed him.

It transpires that a supplementary statement of the complainant Sudesh Kumar was got recorded on 20.01.2016 and wherein he had named Surinder i.e. partner of Kuldeep (since deceased), Ravinder @ Monu i.e. son of Surinder as also the present petitioner and stated that these persons had demanded money from Kuldeep on 3/4 occasions, but the loan was not advanced. As per complainant, Sudesh Kumar, such facts were disclosed to him by his other paternal uncle, namely, Samunder.

Case set up on behalf of the prosecution is that Kuldeep (since deceased) was kidnapped for ransom by the present petitioner and other co-accused.

Petitioner was arrested on 26.09.2016.

Learned senior counsel appearing for the petitioner had adverted to the post mortem report of Kuldeep and which would show, only abrasions on the body.

Even the opinion after going through post mortem report, HPE report and Chemical Examiner report recorded of the Board of Doctors is that the cause of death of Kuldeep is sudden cardiac arrest.

The supplementary statement recorded of Sudesh Kumar on 20.01.2016 and on the strength of which the present petitioner is sought to be implicated can be termed as hearsay evidence.

The deposition of Sudesh Kumar who had already been examined before the trial Court has also been read out in Court today. In his cross

examination, even Sudesh Kumar has clearly stated that at no occasion, money was demanded from Kuldip (since deceased) in his presence.

Under such circumstances, the offence under Section 302 IPC whether made out against the present petitioner would be a moot question to be considered by the trial Court.

The trial is stated to be at the very initial stage and would take time to conclude.

In view of the discussion above and coupled with the incarceration already suffered by the petitioner, he is held entitled to the benefit of bail.

Petition is allowed. Petitioner be enlarged on bail subject to satisfaction of the trial Court/Duty Magistrate, Hisar.

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

Disposed of.

07.04.2017

harjeet

**(TEJINDER SINGH DHINDSA)
JUDGE**

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| i) | Whether speaking/reasoned? | Yes |
| ii) | Whether reportable? | No |