

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

**CRM-M No.38876 of 2017
Date of Decision: 14.03.2018**

Sunil KumarPetitioner
Vs
State of PunjabRespondent

CORAM: HON'BLE MR. JUSTICE RAJ MOHAN SINGH

Present: Mr. Tarunveer Vashist, Advocate
for the petitioner.

Mr. Sandeep Kumar, D.A.G., Punjab.

RAJ MOHAN SINGH, J.

Petitioner has preferred this petition for the grant of regular bail under Section 439 Cr.P.C in case bearing FIR No.102 dated 16.06.2016, registered under Sections 302 IPC at Police Station Patran, District Patiala.

As per prosecution story, complainant Manjit Singh alleged that he was employed as Lab Technician in J.S. Grover Construction Company, whose work was in progress on Satrana Khanauri main road. Complainant's maternal uncle's son namely Sarban Kumar was employed as Driver on Mixture vehicle. After availing leave, he had come to join the duty and had taken the Mixture vehicle to Sunil Kumar Contractor, who was doing the work of constructing drain alongwith his labourers for the disposal of water along side the road in front of Satrana

Hospital. Co-villager of Sarban Kumar namely Dara Singh, driver on Mixture vehicle in the Company, informed the complainant that at 9.00 p.m., Sarban Kumar had gone with Mixture vehicle and had not returned. The complainant had telephonic call at 8.30 p.m. with Sarban Kumar, who told him that the petitioner-Sunil Kumar Contractor son of Rajinder Singh and his companion Foreman Vinod Kumar and labourers were arguing with him after bringing dense mixture and for uploading some mixture at two places. Danger to life was apprehended. On this, the complainant along with Dara Singh reached near the road where the work was in progress in front of Subhash Nagar Satrana. They found vehicle of Sarban Singh standing on the road, but Sarban Singh was not found. While tracing, they reached at the residential area of the contractor and labourers in the old quarters of Government Hospital. On seeing them, Sunil Kumar Contractor and Foreman Vinod Kumar along with 9 labourers fled away from there while taking advantage of darkness. While tracing Sarban Kumar, the complainant-party reached near the room of Government Motor, where they saw with the help of torch light that blood was scattered on the grass and blood-stained iron bending Rod-Die was lying with the wall and the drops of blood were going to the room of Motor. After going to room, the complainant-party saw with the help of torch light that dead body of Sarban Kumar was lying there. The

complainant guarded the dead body for the night and informed the family members. With these allegations, the FIR came to be registered against the Sunil Kumar Contractor son of Rajinder Singh, Vinod Kumar Foreman and 9 other companion labourers.

Learned counsel for the petitioner submitted that the complainant was not present at the spot. The presence of the complainant was not shown in the inquest proceedings. The *ruqa* was prepared ante-dated and ante-time. The Police has firstly prepared the inquest report wherein presence of the complainant was not shown. No exact time for preparation of inquest report has come forth. Ruqa is prima facie proved to have been signed at 5.20 p.m. The FIR was registered on 16.06.2016 and the petitioner was arrested on 28.03.2017 i.e. after the period of nine months.

Learned counsel further submitted that allegations were made against Sunil Kumar Contractor son of Rajinder Singh, whereas father's name of the petitioner is Bhagwan (Sri Bhagwan). The case involves circumstantial evidence and necessary link evidence is missing.

Learned counsel by relying upon **Balkrishna Tukaram Angre vs. State of Maharashtra, 2017(4) R.C.R. (Criminal) 148** contended that when the prosecution story is rested on circumstantial evidence, the petitioner can be released on bail in

the event of finding prima facie missing link evidence.

Learned State counsel on instructions from the Investigating Officer/Police Official submitted that though no PWs were examined earlier, but 3 PWs were bound down for 26.02.2018.

I have considered the submissions made by learned counsel for the parties.

Perusal of the aforesaid prosecution story and material collected by the Police so far would show that the case would be debatable at the trial being oriented around circumstantial evidence.

At this stage, without adverting to the merits of the case, I deem it appropriate to grant concession of regular bail to the petitioner, who is in custody since 28.03.2017.

In view of above, petition is allowed. Petitioner is ordered to be enlarged on bail, subject to his furnishing adequate bail bonds/surety bonds to the satisfaction of the trial Court.

Nothing expressed hereinabove would be construed to be an expression of any opinion on merits of the case.

March 14, 2018

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Whether speaking/reasoned
Whether reportable

(RAJ MOHAN SINGH)
JUDGE

Yes/No
Yes/No