

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

**CRM-M No.54567 of 2018 (O&M)
Decided on: 22.02.2019**

Jabar Singh

....Petitioner

Versus

State of Haryana

....Respondent

CORAM: HON'BLE MR JUSTICE ARVIND SINGH SANGWAN

Present : Mr. Manish Soni, Advocate
for the petitioner.

Ms. Harpreet Kaur, AAG, Haryana.

ARVIND SINGH SANGWAN, J. (Oral)

CRM No.6351 of 2019

Heard.

Allowed as prayed for.

Document (Annexure P8) is taken on record subject to all
just exceptions.

MAIN CASE

Prayer in this petition is for grant of regular bail to the
petitioner under Section 439 of the Code of Criminal Procedure (in
short 'Cr.P.C.') in FIR No.598 dated 23.12.2016, for offence punishable
under Sections 302, 201, 34 of the Indian Penal Code (in short 'IPC')
(Sections 328 and 120-B IPC added later) registered at Police Station
Kherki Daula, District Gurugram.

Counsel for the petitioner has submitted that the petitioner
is in custody since 24.12.2016 and the trial Court has framed the charge

on 16.08.2017 and the primary charge against the petitioner is under Section 201 read with Section 34 IPC for causing disappearance of the evidence by removing the dead body of deceased – Satpal from the place of occurrence along with the main accused – Dharmender.

Counsel for the petitioner has further argued that the petitioner was not named in the FIR and he was involved on the statement of the co-accused Dharmender that he has taken the help of the petitioner in disposing of the dead body. It is further submitted that the similar disclosure statement of the petitioner was recorded by the police.

The co-accused of the petitioner namely Kanhai Kumar Mishra has already been granted the concession of regular by this Court vide order 23.01.2018 passed in CRM-M No.1917 of 2018. The operative part of the order reads as under:-

“...Learned counsel for the petitioner submits that the petitioner was not named in the FIR and the prosecution case is based on circumstantial evidence. It is further submitted that the petitioner has been involved in the case under the aid of Section 120-B IPC after co-accused Dharmender made a disclosure statement that he has obtained some medicine from the petitioner and after mixing the same in a drink, he has given it to deceased.

Counsel for the petitioner further submitted that as per the medical evidence, which has come on record, the poison found in the body of the deceased is Aluminium Phosphide which can be consumed in the form of tablet and because of its characteristic, it cannot be consumed by mixing it alcohol. Counsel for the petitioner has referred to the statement of PW-2-Dr. Deepak Mathur wherein he deposed that Cellphos tablet can never be given by

deception due to its pungent smell. He also submitted that the petitioner was arrested on 26.12.2016 and out of six prosecution witnesses, none has deposed against the petitioner about any conspiracy between the petitioner and co-accused Dharmender.

Learned State counsel, on instructions from ASI Sajjan Singh, has not disputed the fact about the FSL report but has disputed the fact about the statement of the other prosecution witnesses with regard to the allegation of conspiracy between the petitioner and co-accused Dharamender. He further submits that 15 more prosecution witnesses are yet to be examined.

Without commenting on the merits of the case, considering the fact that the petitioner was not named in the FIR and was involved on the disclosure statement of the co-accused Dharamender; he is in judicial lock up since 26.12.2016 and 15 more prosecution witnesses are yet to be examined; the petitioner is ordered to be released on regular bail subject to his furnishing bail /surety bonds to the satisfaction of the trial Court.”

Counsel for the petitioner has also argued that while dismissing the application of regular bail of the petitioner, the Additional Sessions Judge in his order dated 17.10.2018 has noticed that it has come in the statement of PW13 i.e. the complainant – Jai Chand that he had seen the petitioner while dumping/carrying the dead body of the deceased and except that no other evidence has come on record.

Counsel for the State, on instructions from ASI Surinder Singh, assisted by counsel for the complainant has not disputed the factual position as well as the evidence, which as come on record against the petitioner.

Without commenting anything on merits of the case, considering the fact that the petitioner is in custody since 24.12.2016; he is facing the primary charge under Section 201/34 IPC; his co-accused i.e. Kanhai Kumar Mishra, has already been granted the concession of regular bail, this petition is allowed and the petitioner is directed to be released on bail subject to his furnishing bail/surety bonds to the satisfaction of the trial Court/Illaq Magistrate/Duty Magistrate.

However, it will be open for the prosecution to apply for cancellation of bail of the petitioner, in case he is found involved in any other case or misusing the concession of bail, in any manner.

(ARVIND SINGH SANGWAN)
JUDGE

22.02.2019
yakub

Whether speaking/reasoned	Yes/No
Whether reportable:	Yes/No