

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

CRM-M-24609-2020(O&M)
Date of decision:-26.2.2021

Kuldeep @ Deepi

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR.JUSTICE H.S. MADAAN

Present: Mr.Amit Choudhary, Advocate the petitioner.

Mr.Tanuj Sharma, AAG, Haryana.

H.S. MADAAN, J. (Oral)

This petition for regular bail, has been filed by petitioner Kuldeep @ Deepi, aged about 26 years, an accused in FIR No.349 dated 11.8.2018, under Section 346 IPC (Sections 341, 302, 341, 201, 34 IPC and Section 3 of SC & ST Act, 1989 added later on), registered with Police Station City, Tohana, District Tohana.

Briefly stated, the facts of the case as per the prosecution story are that complainant Subhash son of Chandi Ram, resident of Killa Mohalla, Tohana had lodged a report with the police on 11.8.2018 with regard to missing of his son Sunil, aged about 31 years having left the house on 1.8.2018 at about 11:00 p.m. and thereafter not returned home

till date. Initially FIR was registered for the offence under Section 346 IPC. The investigation in the case followed, during the course of which it came out that a dead body was recovered from Kheri Minor canal in the area of village Sirdhan on 5.8.2018 by police of Police Station Bhattu Kalan. Since the dead body could not be identified, postmortem got performed thereon on 9.8.2018. Later on, the dead body was found to be that of Sunil as identified from photographs, clothes and iron kara(bracelet) belonging to the deceased.

Subsequently, the complainant submitted an application to the police that an inquiry is made by him on his own level and it revealed that Gulshan, Lohri and Kuldeep @ Deepi (present petitioner) had committed murder of his son Sunil. Accordingly, offences under Sections 341, 302, 341, 201, 34 IPC and Section 3 of SC & ST Act, 1989 were added in the FIR. Petitioner Kuldeep @ Deepi along with other persons suspected by the complainant were arrested in this case on 21.8.2018. During the course of interrogation, petitioner Kuldeep @ Deepi confessed that he along with his co-accused had committed murder of Sunil. Motorcycle used in the incident was recovered from co-accused of the petitioner, namely, Gulshan. All the three accused had demarcated the spot where Sunil was murdered. After completion of investigation and other formalities, they have been sent up to face trial by submitting challan against them. The petitioner had approached the Court of Sessions at Fatehabad seeking regular bail by moving application but was unsuccessful inasmuch as the application was dismissed by learned Additional Sessions Judge, Fatehabad on 2.4.2019. Thereafter, the petitioner had approached this Court by filing CRM-M-24360-2019.

However, on being asked and report received from the trial Court that the trial was likely to be concluded within six months from the date of receipt of copy of report from the FSL, learned counsel for the petitioner had withdrawn that petition at that stage and it was accordingly dismissed as withdrawn on 13.3.2020.

However, till date, the trial has neither been completed nor there appears to be any reasonable possibility of same being done keeping in view the prosecution witnesses left to be examined.

Learned State counsel on instructions from ASI Manish Kumar has stated that out of 16 Pws cited by the prosecution, 6 of them have been examined and next date of hearing fixed in this case is 25.5.2021.

I have heard learned counsel for the parties besides going through the records.

The instant case is based upon circumstantial evidence with no eye-witness account of the incident being there. As already observed the conclusion of trial is likely to take considerable time. On being asked, the State counsel has informed that petitioner is involved in another FIR No.133 of 2018 for the offence under Sections 323 and 506 IPC. Since the petitioner is in custody for the last more than 2 ½ years with little chances of the trial being concluded in near future, I find that the petition deserves to be accepted.

Accordingly, the petition stands allowed. The petitioner is ordered to be released on bail during the pendency of the trial, subject to his furnishing bail bonds and surety bonds to the satisfaction of the trial Court/Chief Judicial Magistrate, Fatehabad on following conditions:

- (i) he shall appear in the Court on each and every date of hearing;
- (ii) he shall not give any threat or intimidation to the prosecution witnesses;
- (iii) he shall not indulge in any criminal activity;
- (iv) he shall join the investigation as and when directed by the Investigating Officer;
- (v) he shall not leave India without prior permission of the Court; and
- (vi) he shall get his presence marked in the local police station on every Saturday of the week between 11:00 a.m. to 2:00 p.m. so that an eye can be kept on his movements and he is deterred from indulging in any criminal activity.

In addition to that the trial Court may impose any term and condition found suitable to ensure that the petitioner does not abscond and interfere in the trial.

In case the petitioner violates any term and condition on which the bail has been granted to him, the prosecution would be entitled to apply for cancellation of bail.

It may be mentioned here that nothing discussed hereinabove shall have any bearing on the merits of the case.

26.2.2021
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(H.S. MADAAN)
JUDGE

Whether speaking/reasoned :	Yes	No
Whether Reportable :	Yes	No