

101/203

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

**CRM No. 28887 of 2021 In /and
CRM-M No. 34227 of 2021**

Date of decision: 14.09.2021

Amit @ Dhollu

...Petitioner

Versus

State of Haryana

...Respondent

CORAM : HON'BLE MR. JUSTICE ARUN MONGA

Present : Mr. Jai Vir Yadav, Senior Advocate assisted by
Mr. Nitish Sharma, Advocate, for the petitioner,

Mr. Saurabh Mohunta, Deputy Advocate General, Haryana.

(Presence marked through video conferencing).

ARUN MONGA, J. (ORAL)

CRM No. 28887 of 2021

Prayer in the application is for permission to amend the main petition to the extent to read the instant petition as 2nd, instead of 1st in the Head Note and to add in the end of para 11 that “except that earlier petition bearing No. CRM-22770-2020 was dismissed as withdrawn at this stage vide order dated 10.09.2020 Annexure P-8”.

The application is allowed as prayed for.

CRM-M No. 34227 of 2021

This is second foray of petitioner before this court, seeking regular bail in FIR No. 727 dated 04.11.2017, registered under Sections 365, 302, 201 IPC at Police Station, Civil Lines Gurugram, having got the first

petition bearing CRM-M No. 22770 of 2020 dismissed as withdrawn on 10.09.2020.

2. Per FIR, on 02.11.2017, brother of complainant- Kuldeep Singh namely, Prem (since deceased), a driver by profession, had left home for driving to Gurugram-Sohna Chowk. However, he did not return until 04.11.2017. On enquiry, it transpired that deceased was last seen sitting at a tea stall at Sohna Chowk, Gurugram on 02.11.2017 at around 6.30 p.m. The tea vendor disclosed that at around 6.40 p.m. on that day three boys came in a car of Ecco make, which was without number plate. They forcibly took the deceased in their said car and went away. The complainant thus suspected the involvement of Karan Singh @ Habbu, Amit @ Dhollu (Petitioner) and Rajesh @ Dal in the abduction of his brother. The accused were arrested. In course of investigation, offence under Section 302 IPC was added since it came to knowledge that Prem was in fact dead. The petitioner is stated to have suffered disclosure statement, basis thereof recovery of bones and ashes of the deceased was made. Petitioner also helped in demarcation of the place of occurrence. Challan has already been presented.

3. Learned counsel for the petitioner argues that case is based on circumstantial. The petitioner has been falsely implicated. Neither there is any eye witness account nor test identification parade has been conducted to prove the identity of the accused. It has not been proved from the ashes and bones (burnt) recovered allegedly on the joint disclosure statement of the accused that the same was in any manner connected with deceased Prem. He further argues that witnesses of the prosecution, namely, PW1 Constable Manoj Kumar, PW2 Sahil owner of the Tea Stall and PW5 complainant Kuldeep Singh have not supported the prosecution case. The petitioner is in

custody since 02.02.2018 i.e. almost 3 years and 8 months now. He submits that no useful purpose would be served by keeping the petitioner in preventive custody any more.

4. Learned State counsel opposes the bail plea of the petitioner. He argues that there are specific allegations against the petitioner. He submits that there is every likelihood that he may abscond and influence the witnesses.

5. I have heard rival contentions of the respective learned counsels.

6. On a Court query, learned State counsel, under instructions from ASI Dharmender, does not controvert that none of the material witnesses have supported the prosecution version. Out of 16 witnesses, 8 witnesses have already been examined. Rest of the witnesses are all officials. On further Court query, he informs that prime witness PW-2 namely Sahil, who was originally arrayed as last seen witness by the prosecution, has also not supported the prosecution version.

7. In the premise, the net result is that neither alleged eye-witness has supported the prosecution version nor any test identification parade has been conducted. Recording of the statements of the rest of the witnesses will still take some time. The petitioner is in custody since 02.02.2018. The argument of the learned State counsel that the petitioner is likely to influence the witnesses and/ or abscond during the pendency of the trial, *prima facie* does not seem to be tenable in view of the fact that concededly the rest of prosecution witnesses are officials.

8. The pending trial is also not likely to conclude anytime soon as the Courts are currently functioning under certain restrictions caused by Covid-

19 pandemic and till outcome thereof, to keep the petitioner in custody merely on the ground of apprehension, seems to be improper and unfair at this stage.

9. Considering the overall scenario, coupled with prolonged detention already undergone, without commenting on the merits of the case, this petition is allowed. I am of the view that no useful purpose would be served to keep the petitioner in further preventive custody.

10. Accordingly, petitioner is directed to be released on bail, on his furnishing bail bonds and surety bonds to the satisfaction of learned trial Court, where his case is being tried and in case trial Judge is not available, before learned duty Judge, as the case may be.

14.09.2021

vs

(Arun Monga)

Judge

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No