

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

**CRM-M-28555-2019
Date of decision: 28.10.2021**

SUBHASH

...Petitioner

VERSUS

STATE OF HARYANA

...Respondent

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present:- Mr. Shalender Mohan, Advocate
for the petitioner.

Mr.Himmat Singh, DAG, Haryana.

ARVIND SINGH SANGWAN, J. (Oral)

This petition has been filed under Section 439 of the Code of Criminal Procedure for grant of regular bail to the petitioner in case FIR No. 0528 dated 25.12.2015, registered under Sections 302 and 201 of the IPC (Sections 364 and 34 of the IPC added later on) at Police Station Rajendra Park, Gurugram District Gurugram, Haryana.

This petition is pending since 2019 and the affidavit of the Investigating Officer has been filed and out of 35 prosecution witnesses, 18 prosecution witnesses have been examined including all the relevant witnesses have already been recorded.

Learned counsel for the petitioner submits that as per allegations in the FIR registered at the instance of complainant-Satish Kumar, the police party received an information that the dead body of a young person is lying in a canal. Police reached at the spot and recorded the Statement of Satish Kumar who informed the police about the same. Later on, the police conducted the investigating and arrested the petitioner on

05.06.2017. Thereafter, on the disclosure of the petitioner offence under Sections 364 and 34 of the IPC were added and as per the disclosure, since the petitioner has seen the deceased with his wife in a compromising position, he has committed the murder.

Learned counsel for the petitioner further submits that the documents of the deceased like PAN Card, Aadhar Card, Driving Licence etc. which were allegedly recovered from the petitioner were in fact shown to have been missing prior in time and a DDR was registered in this regard with the police by the complainant side.

Learned counsel for the petitioner further submits that the petitioner was arrested after a period of 18 months from the date of occurrence and only a baseball stick was recovered from him.

Learned counsel for the petitioner further submits that later on, on the disclosure of the petitioner the other co-accused namely Rahul, Vikas and Rajbir were arrested. Co-accused namely Rahul and Vikas have already been released on bail by this Court vide orders dated 06.10.2018 and 02.05.2019 passed in CRM-M-28943-2018 and CRM-M-50580-2018 respectively.

Learned counsel for the petitioner further submits that all the relevant prosecution witnesses have already been examined and there is no possibility of tampering with the prosecution evidence.

Reply by way of an affidavit of the Assistant Commissioner of Police, Udyog, Gurugram is on record and as per the reply, the cause of death, given by the doctor in the postmortem report was shock with head injury, which was ante-mortem in nature. The details of the investigating carried by the police as noticed above were also given and it is stated that on

the disclosure of the petitioner, a wooden stick was recovered and thereafter, co-accused Rahul, Vikas and Rajbir were arrested subsequently.

Learned State counsel submits that out of 35 prosecution witnesses, 18 prosecution witnesses have been examined including all the relevant witnesses have already been recorded and as per the custody certificate filed in the Court today, the petitioner is in judicial custody for the last 04 years 04 months and 20 days and he is involved in one case under Section 25 of the Arms Act and one case under Section 506 of the IPC, in which he is on bail.

I have heard learned counsel for the parties.

Without commenting upon the merits of the case, considering the fact that petitioner is in judicial custody for the last 04 years 04 months and 20 days; all the relevant prosecution witnesses have already been examined; conclusion of trial will still take a long time and also in view of the allegations in the FIR and also the fact that petitioner was arrested after a period of 18 months from the date of incident and the entire case revolves around his own disclosure statement; co-accused have already been released on bail by this Court, the instant petition is allowed. The petitioner is ordered to be released on regular bail on his furnishing bail/surety bonds to the satisfaction of the trial Court/Duty Magistrate/Illaq Magistrate, concerned.

(ARVIND SINGH SANGWAN)
JUDGE

28.10.2021
Chetan Thakur

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No