

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

**CRM No.M-37317 of 2021 (O&M)
Date of Decision: December 21, 2021**

Sandeep

...Petitioner

VERSUS

State of Punjab

...Respondent

CORAM: HON'BLE MRS. JUSTICE ARCHANA PURI

Present: Mr.Chandan Singh Rana, Advocate
for the petitioner.

Mr.Abhay Pal Singh Gill, AAG, Punjab
for the respondent-State.

ARCHANA PURI, J.

The matter has been taken up through video conferencing in the light of COVID-19 pandemic.

The petitioner has filed this second petition under Section 439 Cr.P.C. for seeking regular bail in case FIR No.131 dated 19.09.2019 under Sections 302, 201 and 34 IPC, Police Station Meharban, Ludhiana.

Notice of motion was issued. Learned State counsel appeared on behalf of the respondent-State and reply by way of affidavit of Assistant Commissioner of Police (East), Ludhiana, has been filed.

As per the version of the prosecution, on 19.09.2019, complainant Surinder Singh was going from his village to village Khasi Khurd on motorcycle, in connection with some personal work. At about

8.00 a.m., when he reached the fields of Bhupinder Singh, he spotted one dead body, lying near the electric pole, besides the said fields. After parking his motorcycle, when he went near the dead body, he saw that some unknown person/persons had committed murder of said person (deceased) by inflicting injury on his head. Blood was oozing out from the head of the dead body.

During the course of investigation, it was revealed that said dead body was of one Sarvesh, who was working in Avon factory as labourer. Further, during the course of investigation, statement of father of deceased had been recorded, on the basis whereof, present petitioner as well as his brother Rajiv Kumar were nominated in the present case. In the status report filed by the State, it is disclosed that father of deceased in his statement got recorded on 23.09.2019 had stated that his son (deceased) had apprised him that present petitioner Sandeep and his brother Rajiv Kumar had borrowed a sum of Rs.20,000/- from him but they were not now returning the money and whenever, he used to demand the money, then petitioner and his brother used to threaten to kill him. On this basis of this disclosure, the father of the deceased had further stated that his son Sarvesh has been murdered by the petitioner and his brother Rajiv Kumar and in order to destroy the dead body, the same was thrown in the fields. It was only on the basis of this disclosure that the present petition and his brother were nominated as accused on 23.09.2019.

Now, it is submitted by learned counsel for the petitioner that it is case of blind murder, which is totally based upon the circumstantial evidence. Also, it is submitted that as per version of the prosecution, the

Singh, who has already been examined as PW-1 and he has not supported the prosecution version. Besides the same, it is also submitted that prosecution also relied upon another material evidence of deceased '**last seen**' in the company of the petitioner and Asha Devi, is the witness qua this piece of evidence. However, she has also been examined as PW-3 and she has also not supported the prosecution version. Both the said witnesses have been cross-examined at length, after having been declared hostile but nothing material elicited out in their cross-examination to assist the prosecution.

On the other hand, learned State counsel submits that accusations against the petitioner are of grave nature. Though, there is no direct evidence against the petitioner, but however, it is based upon circumstantial evidence and the trial is still going on. As such, a prayer has been made for dismissal of the bail petition.

I have heard learned counsel for the petitioner as well as learned State counsel and have gone through the record.

Undisputedly, there is no direct evidence of murder in the present case. It is case of blind murder and is based upon circumstantial evidence. As per the submissions made by learned counsel for the petitioner, which is not disputed by learned State counsel and also as evident from the status report, PW-1 Jagroop Singh is a material witness. As per the version of the prosecution, the petitioner had made extra judicial confession about having caused murder of Sarvesh to this witness. However, the said witness, when examined in the witness box as PW-1, had not supported the prosecution version. He was declared hostile and was

Singh has been placed on record as Annexure P-1. Besides the said witness, another material witness is Asha Devi, who has been examined as PW-3. As per version of the prosecution, the deceased was '**last seen**' alive in the company of present petitioner and his brother Rajiv Kumar.. However, said witness of the prosecution, has stepped into witness box as PW-3 and she has also not supported the prosecution version. She was also declared hostile and was cross-examined at length. As such, on both counts of such circumstantial evidence, so relied upon, the material witnesses have not supported the prosecution version.

The petitioner is in custody since 23.09.2019. The conclusion of the trial is likely to take time. Considering the aforesaid circumstances, without dilating further on merits of the case, this Court deem it appropriate to grant regular bail to the petitioner. Accordingly, the present petition is allowed and the petitioner is ordered to be released on bail subject to his furnishing personal/surety bonds to the satisfaction of the learned trial Court/Duty Magistrate concerned.

December 21, 2021
Vgulati

(ARCHANA PURI)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
Yes/No