

CRM-M-36778 of 2020 (O&M)

**211IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CRM-M-36778 of 2020 (O&M)
Date of decision: 13.01.2021

Sunil

.....Petitioner

vs.

State of Haryana

.....Respondent

CORAM: HON'BLE MR. JUSTICE DEEPAK SIBAL

Present: Mr. Aman Pal, Advocate, for the petitioners.
Mr. Kuldeep Tiwari, Addl. A.G., Haryana.

DEEPAK SIBAL, J. (ORAL)

Case taken up through video conferencing.

Through the present petition filed under Section 439 Cr.P.C. the petitioner seeks the grant of regular bail in FIR No.1273 dated 07.12.2018 registered under Section 365 IPC (Sections 216, 302, 364, 395, 404 and 120-B IPC added lateron), at Chandni Bagh, Panipat, District Panipat.

Briefly stated, the case of the prosecution is that Ashok filed a complaint with the police with regard to kidnapping of his brother-Santosh. After registration of the formal FIR under Section 365 IPC police investigated the matter and on the basis of secret information arrested the petitioner and co-accused Sonu. The petitioner along with his co-accused, in police custody, is then said to have confessed to have murdered Santosh after taking his purse, mobile phone and ATM card. It is further the case of the prosecution that the petitioner along with co-

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accused Sonu got recovered dead body of Santosh as also the car used in the crime.

Learned counsel for the petitioner contends that the petitioner has been falsely implicated in the case; the petitioner is not involved in any other criminal case; complainant-Ashok, deceased's wife-Manju Rani, two recovery witnesses namely Mohit and Ashish while appearing before the Trial Court as PW1, PW2, PW3 and PW4, respectively have not towed the line of the prosecution and have turned hostile demolishing the entire case of the prosecution; there is no other evidence against the petitioner which would lead to his conviction; the petitioner has already been in custody for over two years; since material witnesses have already been examined the petitioner is not in a position to influence any prosecution witness of the trial and since 26 prosecution witnesses remain to be examined the trial is likely to take a long time to conclude.

Learned State counsel admits to the period of custody of the petitioner; that the petitioner is not involved in any other criminal case and that Ashok, Manju Rani, Mohit and Ashish have turned hostile but opposes the grant of bail to the petitioner on the ground that there is sufficient evidence to convict him and if he is released on bail he may indulge in similar activities/influence remaining witnesses.

There is no eyewitness to the alleged murder of Santosh. The complainant, deceased's wife and both the witnesses to the recovery of the dead body and car have turned hostile; the petitioner has been in custody for over two years; he is not involved in any other criminal case and since 26 prosecution witnesses still remain to be examined the trial is not likely

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to be concluded in the near future especially in the present circumstances when the world is facing the COVID-19 pandemic.

In view of the above, the present case is considered to be a fit one in which the petitioner be directed to be released on regular bail. Resultantly, subject to the satisfaction of the CJM/Duty Magistrate, Panipat, the petitioner is directed to be released on bail. The CJM/Duty Magistrate shall insist on heavy local sureties.

It is clarified that the above observations have been made only for the limited purpose of deciding the present regular bail application and the same would not be construed to be an expression of opinion on the merits of the case.

January 13, 2021
R.S.

(Deepak Sibal)
Judge

Whether speaking/reasoned

Yes/No

Whether Reportable

Yes/No