

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-44110-2021

DATE OF DECISION: OCTOBER 28, 2021

SURENDER

...PETITIONER

VERSUS

STATE OF HARYANA

...RESPONDENT

CORAM: HON'BLE MR. JUSTICE MANOJ BAJAJ.

PRESENT: MR. YASHVEER KHARB, ADVOCATE FOR THE PETITIONER.
MR. BHUPENDER SINGH, DAG, HARYANA.

MANOJ BAJAJ, J.(ORAL)

Petitioner has filed this petition under Section 439 Cr.P.C. for grant of regular bail pending trial in case FIR No.677 dated 13.8.2020, under Section 346 IPC (final report filed under Section 201, 302 and 34 IPC), Police Station Old Industrial Panipat, District Panipat. The petitioner is in custody since his arrest on 29.1.2021.

The allegations contained in the FIR as noticed by the Addl. Sessions Judge, Panipat, in his order dated 14.9.2021, are as under:-

“The facts of the bail application, in brief, are that complainant Sanjeev Kumar gave a complaint to the police stating therein that his younger brother Mukesh, aged 38 years, had gone somewhere from his shop on 12.8.2020 without telling anybody and did not return. He tried to search his brother but failed and hence on his application, formal FIR under section 346 of IPC was registered. Thereafter, on 14.8.2020, a dead body of one unknown person was found from the canal. It's postmortem was got conducted. The complainant identified the said dead body, from his clothings, as of his

brother. As per the report of postmortem, offence under sections 302, 201 of IPC was added and offence under section 346 of IPC was deleted. During investigation, the applicant-accused was arrested on 29.01.2021.”

Learned counsel for the petitioner contends that initially the FIR was lodged by complainant Sanjeev regarding missing of his brother Mukesh and subsequently, when a decomposed dead body was recovered from a canal on 14.8.2020, the same was identified to be of Mukesh. Learned counsel has pointed out that the description of Mukesh given by the complainant in the FIR is different than the description of the dead body recovered by the police. He submits that the post mortem report of the dead body was conducted on 15.8.2020 and later on it was cremated on 17.8.2020, but it was not identified by the complainant or any other relative. He submits that the petitioner was implicated alongwith other two co-accused, namely, Sonu and Geeta through supplementary statement of the complainant recorded on 31.8.2020 and Sanju wife of Mukesh. According to him, the prosecution has set up a motive that a loan of ₹2 lakhs advanced by the petitioner was not returned by the victim which was given at the insistence of co-accused Geeta. He submits that the motive is extremely weak and as the investigation is complete, the further custody of the petitioner may not be necessary.

On the other hand, learned counsel for the State assisted by SI Shri Krishan has opposed the aforesaid prayer and stated that the dead body was identified by the complainant on 3.9.2020 by looking at the photographs. He submits that the vehicle wherein the victim was taken away has been recovered from petitioner Surrender, as the said vehicle was

spotted at a toll barrier. However, it is not disputed by him that the case of the prosecution is based upon circumstantial evidence.

After hearing learned counsel for the parties and considering the above background as well as the custody of the petitioner, this Court is of the opinion that the investigation of the case is complete, but trial of the case is likely to consume considerable time, therefore, further detention of the petitioner behind the bars may not be necessary for any useful purpose who is presently confined in judicial custody after his arrest on 29.1.2021. The material witnesses are either the close relatives of the victim or the police officials, therefore, there also does not seem any possibility of their being won over.

Resultantly, without meaning any expression of opinion on the merits of the case, it is ordered that the petitioner be released on regular bail in the above case, subject to his furnishing requisite bail bonds/surety bonds to the satisfaction of the trial Court concerned.

The petition is allowed.

October 28, 2021
Gulati

(MANOJ BAJAJ)
JUDGE

Whether Reportable : Yes/No

Whether Speaking/Reasoned : Yes/No