

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

223

CRM-M-45313-2021

Date of Decision : November 03, 2021

KRISHAN

.....Petitioner

VERSUS

STATE OF HARYANA

.....Respondent

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present : Mr. V.D. Goyal, Advocate
for the petitioner.

Mr. Ranvir Singh Arya, Addl. AG, Haryana.

Through Video Conferencing

JASGURPREET SINGH PURI. J. (Oral)

The present 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.349 dated 11.08.2018 under Section 346 IPC (later on Sections 302, 341, 201, 34 IPC and Section 3 of Scheduled Castes and Scheduled Tribe (Prevention of Atrocities) Act, 1989 have been added) registered at Police Station City Tohana, District Fatehabad.

The learned counsel for the petitioner has submitted that in the present case, as per the story of the prosecution, the complainant had lodged a complaint with the police that his son, namely, Sunil left the house and thereafter, has not returned home till date. Initially the FIR was lodged under Section 346 of IPC and thereafter, the body was recovered from a canal near village Sirdhan on 05.08.2018 and thereafter the postmortem was got performed and after that the body was identified as

that of Sunil from his clothes etc. The learned counsel for the petitioner has submitted that the petitioner was nominated in the present case on the basis of disclosure statement of co-accused as earlier the complainant had named only three accused namely, Gulshan, Lohri and Kuldeep @ Deepi for the murder of his son. He has submitted that so far as the present petitioner is concerned, it was only later on that his name was nominated in the present FIR. He has further submitted that the trial of the case is going on in a very slow pace and the petitioner is in custody since 21.08.2018, which is more than three years and out of 16 cited witnesses, only six have been examined till date. He has further submitted that one of the other co-accused, namely, Kuldeep @ Deepi, who was initially named by the complainant has been granted bail vide CRM-M-24609-2020 (Annexure P-3) on 26.02.2021. He has further submitted that even the long custody may also be considered for the grant of bail to the petitioner.

On the other hand, Mr. Arya, learned Addl. A.G., Haryana has submitted that it is correct that the petitioner is in custody since 21.08.2018, which is more than three years and only six witnesses have been examined till date. However, he has opposed the grant of bail on the ground that the petitioner is involved in another FIR pertaining to Section 302 IPC. However, the aforesaid matter in which the petitioner was involved in 302 IPC was registered after the present case while he was in jail and since one of the prisoners had died, an FIR was lodged against some of the prisoners including the petitioner.

I have heard the learned counsel for the parties.

The custody period of the petitioner is not in dispute, which is more than three years and it is also not in dispute that six witnesses have already been examined out of 16 cited witnesses. Furthermore, the present case is based on circumstantial evidence and there is no eye-witness account of the incident. Apart from the same, the petitioner was named on the basis of disclosure statements of three other co-accused who were initially named by the complainant. The involvement of the petitioner in other case under Section 302 of IPC would not become a ground for denial of bail in the present case keeping in view the custody period of the petitioner and also keeping in view the fact that in the other case, the petitioner alongwith some other prisoners were nominated in case involving the death of a prisoner. Furthermore, it is not the case of the State that in case the petitioner is released on bail then he may influence any witness or may tamper with any evidence or may flee from justice.

Therefore, considering the totality of the facts and circumstances of the present case, this Court deem it fit and proper to grant bail to the petitioner.

Consequently, the present petition is allowed. The petitioner is ordered to be released on bail on furnishing of bail bonds and surety bonds to the satisfaction of concerned Chief Judicial Magistrate/trial Court/Duty Magistrate.

(JASGURPREET SINGH PURI)
JUDGE

November 03, 2021
jyoti-iv/rajender

Whether speaking/reasoned.	:	Yes/No
Whether Reportable.	:	Yes/No