

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

(108+214)

CRM-M-42455-2020 (O&M)

Date of decision:- 25.10.2021

Om Parkash @ Omi

... Petitioner

Versus

State of Punjab

... Respondent

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present:- Mr. D.K.Sharma, Advocate for the petitioner.

Mr. Sarabjit Singh Cheema, AAG, Punjab.

...

CRM-35020-2021

For the reasons given in the application, it is allowed.

Annexures P-6 and P-7 are taken on record subject to all just exceptions.

CRM-M-42455-2020

Instant petition has been filed under Section 439 of the Code of Criminal Procedure, 1973 for grant of regular bail to the petitioner in case FIR No.104 dated 20.04.2018 under Sections 302 and 396 of the Indian Penal Code, 1860 (Section 201 IPC was added later on), registered at Police Station Dehlon, District Ludhiana.

As per the case of the prosecution, a dead body recovered from a drain in the area of village, Shanker, was kept in the mortuary of Civil Hospital, Dehlon. On basis of information from a secret informer, the dead body was identified to be of Nem Singh @ Raju resident of Lakoni, Hisar. The deceased was driver of truck No.HR 39B 1881, which was loaded with

scrap being transported from Gaziabad to Ludhiana. He was allegedly murdered by Om Parkash @ Omi (present petitioner) and Vinod Kumar with an intention to loot the truck and they had thrown his body in the canal distributory.

Counsel for the petitioner submits that the petitioner has been falsely framed and the prosecution does not possess any link evidence. He has referred to the testimony of the Investigating Officer (PW-3) to argue that his statement is full of inconsistencies. Counsel submits that the statement of Ramandeep Singh Virk (PW-6) does not inspire confidence and Gurmail Singh (PW-7), before whom extra judicial confession is claimed to have been made by the accused-petitioner, has turned hostile. He urges that the looted truck has been recovered and the petitioner, who is in custody since 26.04.2018, deserves to be granted the concessin of bail as the material witnesses have been examined. He has also placed reliance upon the order dated 28.10.2020, Annexure P-5, passed by this court, whereby, co-accused, Vinod Kumar, has been ordered to be released on regular bail.

Per contra, learned State counsel, upon instructions from, SI, Surinder Singh has opposed the petition. He has referred to the reply filed by way of an affidavit of ACP (South), Ludhiana to submit that the prosecution possesses sufficient incriminating material to nail the accused-petitioner. As per his instructions, challan has been presented on 06.07.2018, charge has been framed on 25.01.2020 and statement of 07 out of 15 prosecution witnesses has been recorded.

Having heard learned counsel for the parties, the Court is of the opinion that the complicity of the petitioner in the murder would remain debatable and the petitioner, who has an unblemished past and is in incarceration for the last 3 years and 06 months, is entitled to be released on bail as the trial is likely to take time to conclude.

Without examining the merits or de-merits of the arguments addressed by the counsel for the parties, the petition is allowed. The petitioner, namely, Om Parkash @ Omi, is ordered to be released on bail on his furnishing adequate bail/surety bonds to the satisfaction of the Illaqa Magistrate/Duty Magistrate concerned.

It is clarified that any observation made hereinabove shall not be construed to be a reflection of opinion on the merits of the case.

(SUVIR SEHGAL)
JUDGE

25.10.2021
Kamal

Whether Speaking/Reasoned	Yes/No
Whether Reportable	Yes/No