

**In the High Court for the States of Punjab and Haryana
At Chandigarh**

CRM-M-2434-2022 (O&M)
Date of Decision:-9.3.2022

Chandra Shekhar Kumar ... Petitioner

Versus

State of Haryana ... Respondent

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present:- Mr. Tajinder Pal Singh, Advocate,
for the petitioner.

Mr. Rajiv Sidhu, DAG, Haryana,
assisted by SI Sukhwinder Singh.

GURVINDER SINGH GILL, J.(Oral)

1. The petitioner has approached this Court seeking grant of regular bail in respect of a case registered against him vide FIR No.0175 dated 18.04.2021 at Police Station Taraori, District Karnal, under Sections 302/201 IPC (Section 120-B IPC and Section 34 IPC added later on).
2. The FIR in question was lodged at the instance of Pal Singh, wherein he alleged that he is resident of Karnal and his fields are situated near GT road. On 18.04.2021, when he had gone towards fields, he was informed by someone that a dead body is lying in the drain on the main GT road near Gurdwara. Upon getting said information, Pal Singh went to the spot and

saw the dead body of an unknown person lying in a drain, which was in putrefied condition. Pal Singh informed the Police on the basis of which the FIR came to be lodged.

3. The dead body was identified to be of Nikki son of Shiv Ganesh. Nikki had been missing from his house since 16.04.2021 in respect of which his father lodged a report bearing GD No.0042A dated 17.04.2021 at Police Station Nearela Industrial Area, Outer North, Delhi, wherein he did not express any suspicion against anybody. On the basis of aforesaid report, a separate FIR i.e. FIR No.0231 dated 23.04.2021 at Police Station Narela Industrial Area, Outer North, Delhi (Annexure P-5), has been lodged.
4. It is further the case of the prosecution that during the course of investigation in case FIR No.0175 dated 18.04.2021, statement of Shiv Ganesh, father of the deceased, was recorded wherein he stated that after lodging of the “missing report” in respect of his son, he had come to know that his son had been abducted and in respect of which FIR No.0231 dated 23.04.2021 was lodged. He stated that he had seen the pictures of the dead body of an unknown boy recovered from the drain near GT road, Karnal and had also seen the clothes shown to him, which were of his son. He further stated that he suspected that his son, who was having an affair with Manisha, had been abducted and eliminated by Manisha’s father, namely Sunil; Manisha’s uncle, namely, Chander Shekhar; Vijay @ Nagesh and Dinesh.
5. Pursuant to the aforesaid statement of Shiv Ganesh, Sunil was arrested on 27.04.2021 in the instant case and upon interrogation, he suffered a disclosure statement on 28.04.2021 (Annexure P-7), wherein he admitted having given blows to Nikki, when he was found in his house during night

and also admitted that he had thrown him down the stairs leading to his death. He also stated therein that he alongwith his brother took the dead body to Narela and Kutail and that their servants, namely, Dinesh Shah and Vijay Kamad @ Nagesh also accompanied them from Narela and he disclosed all the facts to their servants and who agreed to dispose of the dead body as he assured them of financial gains.

6. Learned counsel for the petitioner has submitted that even if all the allegations as leveled in the aforesaid disclosure statement of Sunil Kumar (Annexure P-7) are taken to be correct, still at best the only allegation that can survive against the petitioner would be pertaining to offence under Section 201 IPC and that even as per the case of the prosecution, it is only Sunil, who had killed Nikki and there is no allegation that there was any connivance of the petitioner with Sunil as regards the alleged murder of Nikki. Learned counsel for the petitioner submits that the petitioner, in any case, deserves the concession of bail on grounds of parity inasmuch as a co-accused Dinesh Shah has already been granted bail by this Court vide order dated 23.11.2021.
7. Opposing the petition, learned State counsel has submitted that since the petitioner had played an active role in disposal of the dead body of Nikki, his complicity is clearly evident. It has, however, been informed that the petitioner as on date has been behind bars since the last more than 10 months and is not involved in any other case. Learned State counsel has further submitted that the petitioner cannot claim any parity on account of the co-accused Dinesh Shah having been granted bail inasmuch as the petitioner is real brother of the main accused Sunil. Learned State counsel has further

informed that not even a single witness out of the cited 21 PWs has been examined.

8. I have considered rival submissions addressed before this Court.
9. A perusal of the disclosure statement of co-accused Sunil would itself reveal that the petitioner had come into picture after co-accused Sunil had committed murder of Nikki. The relevant extract from the disclosure statement of Sunil reads as follows:

“.....Thereafter, I had gone to the house of my brother Chander Shekhar and called him, where I had disclosed everything about death of Nikki to my brother Chander Shekhar. My brother Chander Shekhar told me not to disclose this thing to anybody and told me to throw dead body of Nikki at some faraway place, so that nobody come to know about it.....”

10. It is not in dispute that the allegations pertaining to murder of Nikki have been leveled only against Sunil and not against the instant petitioner, who in any case was not even present at the time of alleged murder and came to be associated subsequently for the purpose of disposal of the dead body. The petitioner was not even aware about the murder of Nikki and it was only when co-accused Sunil told him about the same that the petitioner came to know about the said murder. In these circumstances, the involvement of the petitioner as far as offence under Section 302 IPC is concerned would be debatable. In any case, the petitioner has been behind bars for a substantial period of more than 10 months and is stated to be having a clean record. Conclusion of trial is likely to consume time as not even a single witness out of the cited 21 PWs has been examined so far. In these circumstances, further detention of the petitioner will not serve any useful purpose. The petition, as

such, is accepted and the petitioner is ordered to be released on regular bail on his furnishing bail bonds/surety bonds to the satisfaction of learned trial Court/Chief Judicial Magistrate/Duty Magistrate concerned.

9.3.2022
pankaj

(Gurvinder Singh Gill)
Judge

Whether speaking /reasoned

Yes / No

Whether Reportable

Yes / No