

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

228

CRM-M-10787-2022 (O&M)
Date of Decision: 17.03.2022

Mukesh @ Sanjay @ Macchar

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present: Mr. Rakesh Dhiman, Advocate, for the petitioner.

Mr. Rajiv Sidhu, DAG, Haryana.

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.147 dated 05.06.2020 at Police Station Farrukh Nagar, Gurugram, District Gurugram, under Sections 302/201/204 IPC, pertaining to murder of Ramesh i.e. father of the complainant, who was found murdered in a room after being assaulted on head and forehead. The mobile phone of the deceased was taken away and the SIM card of the deceased was taken out. The mobile hand set was later used by the petitioner. On the basis of call detail record and matching of the IMEI number, the petitioner was arrested who gave a disclosure statement in pursuance to which he got recovered the mobile hand set. It is further the case of prosecution that there is also “last seen” evidence in the shape of statement of Bal Kishan.

2. Learned counsel for the petitioner has submitted that it is a case based totally on circumstantial evidence and that the solitary witness i.e. PW-4 Bal Kishan, who is alleged to have last seen the deceased in the company of the accused has not supported the case of the prosecution and has resiled from his statement. It has been submitted that apart from the aforesaid evidence, the prosecution is left with the call details record, which is not sufficient to connect the petitioner with the alleged occurrence.
3. On the other hand, learned State counsel has vehemently opposed the petition on the ground that the call details record clearly shows that the petitioner has been using the phone of the deceased and that since the said phone had been recovered from the petitioner, it is absolutely clear that he had killed the deceased and had been using his phone thereafter. Learned State counsel has, however, not disputed the fact that PW-4 Bal Kishan stands resiled. It has also been informed that the petitioner has been behind bars since the last about 1 year and 10 months and that the petitioner stands involved in one more case registered under Section 138 of the Negotiable Instruments Act.
4. I have considered rival submissions addressed before this Court.
5. It is not in dispute that the case is based totally on circumstantial evidence. The material witness on which the prosecution was banking i.e. PW-4 Bal Kishan, has already resiled and has not supported the case of the prosecution. In any case, the petitioner has been behind bars for a substantial period of about 1 years and 10 months. 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.

17.03.2022

(GURVINDER SINGH GILL)

VY

JUDGE

Whether speaking/reasoned: Yes/No
Whether reportable: Yes/No