

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

215

**CRM-M-16759-2022
Date of decision: 21.07.2022**

UMESH

....Petitioner

Versus

STATE OF HARYANA

...Respondent

CORAM: HON'BLE MR. JUSTICE VINOD S. BHARDWAJ

Present : Mr. Govinder Singh Brar, Advocate
for the petitioner.

Mr. Ashish Yadav, Additional A.G. Haryana.

VINOD S. BHARDWAJ. J. (ORAL)

1. The present 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.222 dated 18.06.2018 registered under Sections 302, 201, 120-B read with Section 34 of the Indian Penal Code, 1860 and Sections 25 of the Arms Act, 1959 at Police Station Model Town, Rewari, District Rewari.

2. The FIR in the present case has been registered on the complaint of one Surinder Singh and the relevant extract thereof reads thus:

“I am a resident of the above address and doing the agriculture work. Today on dated 17.6.2018, I was going to the canal track to walk with my dog, then I saw a dead body of a person in the canal, I gave information to the

Police Control Room about this, on which you came and took out the dead body from the canal of unknown person, then it was seen that there is a bullet mark in his neck and injury marks on the left side of the forehead and a plastic rope was found tied in the neck, which you tried to identify the dead body, but could not be identified. The age of unknown person was about 25-30 years. The unknown accused had thrown the dead body in the canal with intention to remove the evidence. Legal action be taken. Statement has been recorded, which is read over and is correct. Sd/- Surender Attested Karan Singh ASI PS MT Rewari. Police Proceedings: Today I ASI alongwith HC Rajesh Deepak 499, HC Sandeep 135 for patrolling at Poswal Chowk was present that information was received that JLN Canal Area village Madhaya Kalan, a dead body of a person is lying in the canal, when the dead body took out from the canal and seen, then it was seen that there is a bullet mark in his neck and injury marks is seen on the left side of the forehead and a plastic rope was found tied in his neck and injury marks is seen on the left side of the forehead and a plastic rope was found tied in the neck, which you tried to identify the dead body, but the identity could not be done. Surender Singh had recorded his statement which was read over to him word by word, who after reading his statement as correct and signed in english in the statement, which I have identified.”

3. Learned counsel appearing on behalf of the petitioner contends that the petitioner was not named in the FIR and that he was arrested on a disclosure statement made by co-accused Sunny (friend of the petitioner). The aforesaid Sunny was alleged to be in a relationship with widow of the deceased and that the deceased was eliminated in order to remove the hindrances in the relationship between widow of the deceased as well as the co-accused Sunny. He contends that the

petitioner has been in custody since 25.06.2018 and has already undergone an actual custody of more than 04 years. It is submitted that the trial has not yet concluded.

4. Learned counsel appearing on behalf of the respondent-State however points out that out of a total of 22 witnesses, 15 witnesses have been examined and 07 witnesses are still to be examined.

5. The aforesaid contention of the State counsel is responded to by the learned counsel representing the petitioner to contend that the position was the same even on 28.04.2022. When it was stated by the counsel appearing on behalf of the State of Haryana that the witnesses have been summoned for 01.06.2022, however, no evidence has been led by the prosecution on the said date. He contends that the trial has been deliberate delayed by the prosecution for no valid reasons. He submits that none of the witnesses had come present on the said date of hearing and no valid explanation has been furnished as to their absence despite being served. He further submits that the petitioner does not suffer from any criminal antecedents and had no motive in the commission of the offence.

6. I have heard learned counsel appearing on behalf of the respective parties and have gone through the record with their assistance.

7. Without examining the merits of the instant case and taking in to consideration, the actual custody of more than 04 years having already undergone by the petitioner and also the fact that the prosecution has been delaying conclusion of the trial by not leading and

concluding its evidence, I find no reason to continue incarceration of the petition in custody to be left at the mercy of the prosecution to conclude the trial as its own pace, I deem it appropriate to enlarge the petitioner on bail to the satisfaction of the trial Court.

8. The instant petition is allowed and the petitioner is ordered to be released on bail on his furnishing requisite bail bond/surety bond to the satisfaction of the Trial Court/Duty Magistrate, concerned.

9. It is made clear that the petitioner shall not extend any threat and shall not influence any prosecution witnesses in any manner directly or indirectly.

10. The observation made hereinabove shall not be construed as an expression on the merits of the case and the trial Court shall decide the case on the basis of available material.

The petition is allowed.

(VINOD S. BHARDWAJ)
JUDGE

JULY 21, 2022
vishal sharma

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