

CRM-M-25707 of 2021 (O&M)

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

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CRM-M-25707 of 2021 (O&M)

Date of decision:11.07.2022

Mohmmad Makbul

... Petitioner

Vs.

State of Haryana

... Respondent

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present:- Mr.P.S.Hundal, Senior Advocate with
Mr. Sanjiv Sheoran, Advocate
for the petitioner.

Ms. Mahima Yashpal, DAG, Haryana.

SUVIR SEHGAL, J. (Oral)

CRM No.22313 of 2022

Application is allowed as prayed for.

Annexures P-7 to P-10 are taken on record.

CRM-M-25707 of 2021

This is the second petition filed under Section 439 of the Code of Criminal Procedure, 1973 (hereinafter referred to as “the Code”) seeking grant of regular bail to the petitioner in case FIR No.99 dated 16.04.2019 registered under Sections 302, 201, 120-B of Indian Penal Code, 1860, at Police Station Sector 6, Bahadurgarh, District Jhajjar (Annexure P-1).

Version of the prosecution is that FIR (Annexure P-1) has been registered on the statement of Jitender Kumar Verma on the allegation that his brother-in-law, Vinay Soni had taken Rs.40,000/- from Sunil and he had a financial dispute with him. On 16.04.2019, at about 11.00 a.m., he

received information that someone had killed him and thrown his body near Bahadurgarh Bye-Pass. On receiving information, he alongwith Sushil Kumar Soni, uncle of the deceased and Rajpal Soni, father of the deceased reached the spot where they identified the body. He suspects that Vinay Soni has been killed by match fixers.

Learned senior counsel representing the petitioner contends that neither the petitioner has been named in the FIR nor in the testimony of the three material witnesses, who have been examined. Reference has been made by him to the statement of Sushil Kumar, Rajpal and Jitender Verma (PW1 to PW3), which have been placed on record as Annexures P-8 to P-10, respectively. Learned senior counsel submits that first petition (CRM-M-18769 of 2020) filed by the petitioner was dismissed by this Court on 17.08.2020 and thereafter, the complainant, Jitender has been examined on 11.04.2020. Reliance has been placed by him on order dated 18.01.2020, Annexure P-2, whereby, co-accused Ashish alias Sonu has been released on regular bail by the learned Additional Sessions Judge, Jhajjar. It is his categorical case that prosecution does not possess any incriminating material against the petitioner, who enjoys a clean past and is languishing behind bars since 22.04.2019. He urges that petitioner deserves to be released on bail.

Per contra, State counsel, upon instructions from SI Jagbir and by making a reference to the status report filed by way of an affidavit of Additional Superintendent of Police, Bahadurgarh, District Jhajjar, submits that in the statement recorded under Section 161 of the Code, Raj Pal, father

of the deceased has specifically named the petitioner alongwith other co-accused as suspects. She submits that during the course of investigation, the investigating agency has recovered CCTV footage as also tower location which shows that the petitioner was present at the spot of occurrence. Still further, she submits that in his confessional statement, co-accused, Sonu has stated that the petitioner inflicted injuries on the deceased which lead to his death. As per her instructions, 3 out of total 22 prosecution witnesses have been examined.

Having considered the arguments address by counsel for the parties, this Court is *prima facie* of the view that complicity of the petitioner in the homicide would be remain controvertible before the Trial Court. Long custody of more than 03 years and 02 months would entitle the petitioner to be released on bail as the trial is at an initial stage and 19 more prosecution witnesses are yet to be examined.

Without delving into the merits or demerits of the arguments addressed by counsel for the parties, petition is allowed and the petitioner is ordered to be released on bail on furnishing bail/surety bonds to the satisfaction of the Trial Court/Duty Magistrate concerned.

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

July 11, 2022

savita

(SUVIR SEHGAL)

JUDGE

Whether Speaking/Reasoned	Yes
Whether Reportable	Yes