

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

**CRM-M-36376-2020 (O&M)
Date of decision: 14.03.2022**

Sajid

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present:- Mr. Sanawar Ali, Advocate
for the petitioner.

Mr. Deepak Kumar Grewal, DAG, Haryana.

ARVIND SINGH SANGWAN, J. (Oral)

This petition has been filed under Section 439 of the Code of Criminal Procedure for grant of regular bail to the petitioner in case FIR No. 134 dated 01.04.2018, registered under Sections 302, 460, 201 and 34 of the IPC at Police Station Sadar Thanesar, District Kurukshetra.

Learned counsel for the petitioner submits that as per allegations in the FIR, registered at the instance of Sanjay Kumar, it is stated that dead body of his uncle (*Taaya*) Chhotu Ram was handed over to them for cremation. It is further stated that his uncle Chhotu Ram had sold his land situated in the village and started to live in Saraswati Colony alone after constructing a house there, which was constructed by co-accused Wasim and his uncle had blind faith over Wasim. Chhotu Ram had installed a CCTV camera in the house and later on, it was found that DVR of the same was missing along with his two mobile phones and some jewellery

articles and they have doubt that said Wasim has committed the offence along with his associate i.e. the petitioner herein.

Learned counsel for the petitioner further submits that the FIR was registered after a delay of about two months and out of total 23 prosecution witnesses, only 19 witnesses have been examined so far.

Learned counsel further submits that as per statement of PW-15 Dr. Anita, Medical Officer, LNJP Hospital, Kurukshetra, who conducted the post-mortem of the deceased, it is stated that no definite cause of death can be given and there seems no unnatural cause of death. In cross-examination, this witness has further stated that one of the reasons for the natural death is also stoppage of beating of heart for want of Oxygen.

Learned counsel for the petitioner has further referred to the statement of PW-17 Dr. Monika V. Gathwal, Associate Professor, Govt. Medical College, Khanpur, wherein again no specific opinion with regard to cause of death is given and it is stated that it was found that the cause of death was not due to failure of the heart, which was found to be in proper working at the time.

Learned counsel for the petitioner has further submitted that even in the statement of PW-8 Babu Ram, Nodal Officer, BSNL, Karnal from whom the verification of the mobile phones was done, it was found that one of the mobile phones belongs to co-accused Wasim, the second one belongs to one Khalid and the third one belongs to deceased Chhotu Ram, therefore, again there is no sufficient evidence to prove that the petitioner was in touch with the deceased, though the call details of the mobile phone of the petitioner have been taken by the police.

Learned counsel for the petitioner further submitted that the

petitioner is in judicial custody for the last about four years and the case is still at the stage of recording the statement of the prosecution witnesses as an application under Section 311 Cr.P.C. was filed for recording the additional evidence. It is further submitted that the petitioner is not involved in any other case.

Reply, filed by way of the affidavit of the DSP concerned, is on record and as per reply, after verifying the facts given in the FIR, it is not disputed that the FIR was registered after a delay of about two months from the date of incident and the name of the petitioner surfaced in this case on the basis of the disclosure of co-accused Wasim.

Learned State counsel further submits that the case is still at the stage of recording the statement of the prosecution witnesses, though all the material witnesses have already been examined.

After hearing learned counsel for the parties, without making any comment on the merits of the case, considering the fact that the petitioner is in long judicial custody of about four years; all the material witnesses have already been examined; he is not involved in any other case and also in view of the three discrepancies as noticed above, the present petition is allowed. The petitioner is directed to be released on regular bail, subject to his furnishing bail/surety bonds to the satisfaction of the trial Court/Duty Magistrate, concerned.

14.03.2022

Waseem Ansari

**(ARVIND SINGH SANGWAN)
JUDGE**

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No