

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

210

CRM-M-44802-2022
Date of decision : 07.12.2022

Nishant

Petitioner

V/S

State of Haryana

Respondent

CORAM : HON'BLE MR. JUSTICE ASHOK KUMAR VERMA

Present: Mr. Jai Vir Yadav, Senior Advocate with
Mr. Harshvardhan Ranga, Advocate
for the petitioner.

Mr. Gaurav Bansal, Asstt. A.G., Haryana
for the respondent-State.

ASHOK KUMAR VERMA, J. (ORAL)

The petitioner has filed the present petition under Section 439 of the Code of Criminal Procedure, 1973 for grant of regular bail in case FIR No.317 dated 17.12.2021 registered under Sections 348, 343, 365, 302, 201 and 34 of the Indian Penal Code, 1860 at Police Station Sector-53, Gurugram.

Reply dated 02.12.2022 by way of an affidavit of Sh.Sanjeev Kumar, HPS, Assistant Commissioner of Police, Sadar, Gurugram has been filed in the Court today which is taken on record.

The above-said FIR was registered upon the complaint made complainant-Styapal alleging that since last 01 year his elder son namely Ajay, aged about 18 years, working with Balaji Medical Store, Sector-52, Gurugram. On 07.10.2021, the store owner blamed Ajay for stealing three mobile phones and kept him in his custody. He assaulted Ajay and made a pressure upon him regarding confession of stealing of

mobile phones. On 08.10.2021 his son escaped from their custody and came at Village Khandsa. On the same day, they called the complainant and forcefully took him in the car and kept him in there custody for 03 days. On 09.10.2021 when they came to know that Ajay was with his mother at Village Khandsa, they took him from there and released the complainant and asked him his son-Ajay would remain in their custody till the recovery of mobile phones or money. On 12.10.2021, they told the complainant that his son run away from their custody. After that he made several calls but they did not disclose him anything. During investigation the stolen mobile phone were recovered from Tamil Nadu. On 05.05.2022 a inquiry was made from Rubal, Arun @ Painter, Nishant @ Deenu (the petitioner) and Amit. During interrogation they confessed that they murdered Ajay, they dig a whole and suppress the dead body of Ajay in the fields of Village Aaramnagar, Police Station Rampur, District Rewari and got recovered the dead body.

Learned counsel for petitioner submits that the petitioner has been falsely implicated in the case on the basis of disclosure statement made by co-accused Amit. The petitioner is neither named in the FIR nor any overt act has been attributed to him. Deceased-Ajay was working in a medical store owned by co-accused Amit and living with Amit, Rubla and Arun @ Painter for doing their domestic work. Therefore, there was no motive which was alleged against the petitioner since from the beginning. There is no evidence against the petitioner except the disclosure statement which is a very weak type of evidence. Even in the disclosure statement, the only role/allegation levelled against the petitioner is of offence under Section 201 of the IPC. Co-

accused Akshey @ Neetu has been granted concession of regular bail by the Trial Court vide order dated 30.09.2022. The petitioner is in custody since 05.05.2022. The trial is likely to take long time. No useful purpose will be served by further detention of the petitioner in custody. Therefore, the petitioner may be released on regular bail.

On the other hand learned State counsel opposed the present petition on the grounds that the petitioner along with other co-accused has committed murder of Ajay. If the petitioner released on bail, he may tamper with the evidence and influence the material witnesses.

I have heard learned counsel for the parties and gone through the paper-book.

As per reply filed by the State, during police custody, the petitioner and other co-accused have demarcated the place from where they kidnapped deceased-Ajay, where they gave beatings to him and the place where they killed him. The call details record, ID CAF etc. of the mobile numbers of the accused persons were obtained. From the call details, the accused persons were found to have conversed with each other at the time of occurrence and their locations were also found to be the same. The petitioner had assisted the other accused persons in kidnapping the deceased-Ajay from his house, taking his dead body from the place of occurrence and burying the same in Village Aramnagar, District Rewari. The petitioner has got recovered the Swift Car bearing registration No.HR-36-X-8901 in which the dead body of Ajay was taken for burying the same.

Keeping in view the facts and circumstances of the case, gravity of the alleged offences and the fact that the petitioner has actively participated in the alleged offence but without commenting upon the merits of the case, I am of the considered view that the petitioner does not deserve the concession of regular bail.

In view of the above, the present petition is dismissed.

07.12.2022

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(ASHOK KUMAR VERMA)

JUDGE

Whether speaking/reasoned:

Yes/No

Whether Reportable:

Yes/No