

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

242

CRM-M-45750-2022 (O&M)

Date of Decision: 09.11.2022

Sunil @ Niti

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present: Mr. Wazir Singh, Advocate,
for the petitioner.

Mr. Rajiv Sidhu, DAG, Haryana.

Mr. Varun Sharma, Advocate, for
Mr. Ashwani Talwar, Advocate, for the complainant.

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.181 dated 7.2.2020 under Section 346 IPC (later offence under Section 346 IPC deleted and offences under Sections 365, 302, 201, 404/34/120B IPC were added) at Police Station City Panipat, District Panipat.
2. The FIR in the present case was lodged at the instance of Suresh Sharma, wherein it is alleged that his brother-in-law (sister's husband) Naresh Sharma had left his shop on 6.2.2020 at about 8 p.m. in his Etios Car bearing registration No.HR06-AF-9255, but never reached home and has been missing ever since. Consequently, FIR for an offence under Section 346 IPC was lodged.

3. Subsequently, on 8.2.2020 car of deceased Naresh Sharma was found abandoned in canal of village Budhanpur. However, dead body was not found at that point of time. Consequently, offence under Section 365 IPC was added. It is further the case of prosecution that during the course of investigation, CCTV cameras installed in the house of Pawan were checked on 9.2.2020 and it was found that on 6.2.2020 at about 9:12 p.m., the Etios Car was being followed by a Swift Dzire car, which was going towards Avardhan Canal from Gharaunda side. In the same CCTV footage, at about 9:48 p.m., it was recorded that Swift Dzire car was coming from Avardhan Canal towards Gharaunda side. Upon checking of CCTV footage from the cameras installed in the Essar Petrol Pump of village Upli, it was found that Swift Dzire car bearing registration No.HR11G-9754 had been refueled between 9:50 p.m. and 9:52 p.m. Upon making inquiries, the said car was found to be registered in the name of Monika wife of Sombir Khard, who was joined into investigation and who disclosed that she had given the said car to Chetan Sharma for selling it off.
4. The aforesaid Chetan Sharma alongwith co-accused Pulkit Madan and Sunil (petitioner) was apprehended on 10.2.2020 and who in their disclosures admitted having murdered the deceased. Consequently, on 10.2.2020 offences under Sections 302, 201, 404, 34 IPC were added. It is further the case of prosecution that the accused Pulkit Madan, Chetan Sharma and Sunil demarcated the place where they have thrown the dead body in Bhutanpur. On 12.2.2020, dead body of deceased Naresh Sharma

was found at Tubata on the bridge of Kasandi Canal. Chetan Sharma got the Swift Dzire car bearing registration No.HR11G-9754 recovered.

5. It has been submitted on behalf of the petitioner that he has falsely been implicated in the present case and that there is no evidence worth credence to connect them with the alleged occurrence. It has been submitted that the petitioner is merely being proceeded against on the basis of his own disclosure statement, which would hardly carry any evidentiary value. The learned counsel has further submitted that the petitioner cannot be connected with the CCTV footage and that he is nowhere seen in the car or identified. It has also been submitted since co-accused Chetan Sharma and Pulkit Madan already stand released on bail, the petitioner also deserves the same concession on grounds of parity.
6. Opposing the petition, the learned State counsel assisted by learned counsel for the complainant has submitted that the complicity of the petitioner would be evident from the fact that it is pursuant to his disclosure statement that the dead body could be recovered. It has also been submitted that motor-cycle used in the occurrence, cash amounting to Rs.50,000/- and broken pieces of gold chain belonging to the deceased had also been recovered pursuant to the disclosure statement of the petitioner. Learned State counsel has, however, informed that the petitioner as on date has been behind bars since the last more than 2 ½ years. It has also been informed as on date 15 PWs out of cited 31 PWs have been examined.
7. I have considered rival submissions addressed before this Court.

8. It is a case based on circumstantial evidence. This Court finds that though the car is seen in the said CCTV footage, but the passengers are not seen therein. Thus, the identity of the petitioner cannot be established with certainty more so when the registered owner of the car i.e. Monika has not supported the case of the prosecution when appeared into witness-box as PW-11. The petitioner, otherwise, has been behind bars for a substantial period of more than 2½ years and that he is not stated to be involved in any other case. In view of the aforestated discussion, further detention of the petitioner will not serve any useful purpose.
9. 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.
10. It is, however, made clear that none of the observations made above shall be construed to be an expression on merits of the main case.

09.11.2022

Vimal

**(GURVINDER SINGH GILL)
JUDGE**Whether speaking/reasoned: **Yes/No**Whether reportable: **Yes/No**