

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

Case No. : CRM-M-3957-2023

Date of Decision : April 24, 2023

Sant Kumar @ Sant Lal
vs.

.... Petitioner

State of Haryana

.... Respondent

CORAM : HON'BLE MR. JUSTICE GURBIR SINGH.

* * *

Present : Mr. Raman Chawla, Advocate
for the petitioner.

Mr. Karan Sharma, DAG, Haryana.

Mr. Jitender Dhanda, Advocate
with Mr. Babbar Bhan, Advocate
for the complainant.

* * *

GURBIR SINGH, J. :

Prayer in this petition, filed under Section 439 Cr.P.C., is for grant of regular bail to the petitioner in case FIR No.452 dated 04.08.2022, under Sections 148, 149, 365, 302 and 120-B IPC (Sections 364, 216 IPC were added during investigation), registered at Police Station Civil Lines Hisar, District Hisar.

Pursuant to order passed by this Court on the last date of hearing, Status Report by way of affidavit of Ashok Kumar, HPS, Deputy Superintendent of Police, Headquarter, Hisar, has been filed, which is taken on record.

The FIR in question was registered on the statement of Ankush stating therein that on 02.08.2022, his grandmother was admitted in Sarvodya Hospital, Hisar and he was with his grandmother to look after her.

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: 2 :

As per the allegations, on 03.08.2022, Lalit (since deceased) informed Ankush (Complainant) that he was in Hisar. On the same day, at about 7/8 PM, Lalit again informed Ankush that he was present near South Bye-pass Bridge at Kaimiri Road, Hisar. He asked Ankush to come there as he was apprehending danger to his life from his in-laws. At about 09:30 PM, Ankush reached near South Bye-pass Bridge towards Tosham Road, Hisar where Lalit was standing. In the meantime, one white coloured Ritz car and one Chocolate coloured Bolero Camper came from the backside of Ankur and stopped near Lalit. Around 18-20 persons armed with lathis, dandas, rods and other weapons alighted from the vehicles and forcibly put Lalit inside their car and fled away towards Tosham Road, Hisar. He named few persons along with unknown persons who were there in the cars. Ankush immediately called No.112 and also intimated family members of Lalit. On 04.08.2022, at about 04:00/05:00 AM, Ankush and his family members came to know that Lalit had died and his dead body was lying in Aadhar Hospital, Hisar.

During investigation, accused Sachin @ Sinu and Sumit @ Golu were arrested and Section 364 IPC was added. They also got demarcated the place of occurrence from where Lalit was kidnapped and also got demarcated the place where conspiracy for the alleged occurrence was made. They further got demarcated the place where they, after beating Lalit, had thrown his dead body. The *danda* used in the crime was also got recovered. Accused Sachin got recovered clothes of deceased Lalit. During further investigation, accused Parveen @ Peeni, Ashish and Deepak were also arrested. One mobile phone was recovered from Ashish, on which video

of the alleged occurrence was prepared. Accused Deepak also got recovered one mobile phone through which video of the alleged occurrence was prepared. Accused Sanjay was also arrested and he got recovered white coloured Ritz car bearing registration No.HR-18-A-8044. Accused Rohtash Kumar was arrested and Section 216 IPC was also added in the case.

On 01.09.2022, complainant Ankush made a supplementary statement, on the basis of which, the petitioner was nominated and was arrested on 09.09.2022. The petitioner is maternal uncle of Saroj, wife of Lalit (since deceased). The Ritz car, which was got recovered from accused Sanjay, belonged to the petitioner. His disclosure statement was recorded. Accused Roshan was arrested in the case.

Learned counsel for the petitioner has submitted that the petitioner was not named in the FIR. The complainant named about 16 persons in the FIR along with their parentage and addresses including relatives of in-laws of deceased Lalit as well as their friends but the petitioner, who is a close relative of deceased being maternal uncle of his wife, has not been named. Even in the video recording, petitioner is not seen. The car has been recovered from co-accused Sanjay. The said car was being used by Sanjay and not the petitioner. As per the post-mortem report, there were six injuries on the person of Lalit with danda, iron pipes and rods. No weapon is shown to have been recovered from the petitioner. After recording of FIR, statements of Om Parkash (Annexure P-2), Balbir Singh (Annexure P-3) and Ankush (Annexure P-4) were recorded on 04.08.2022 but the petitioner was not named in these statements. Petitioner has been falsely implicated being brother-in-law of Sanjay, from whom the car in

question has been recovered, and being maternal uncle of wife of deceased Lalit. It has further been submitted that Saroj and few others have been found innocent during investigation. It is also so mentioned in the Status Report filed on behalf of the respondent-State. Keeping in view all the circumstances, the petitioner be granted concession of regular bail.

Learned State counsel as well as learned counsel appearing for the complainant, on the other hand, have opposed the prayer made by learned counsel for the petitioner. Learned counsel for the complainant has placed on record photographs. A perusal of these photographs reveals that injuries have been caused by many persons to Lalit with different weapons.

Learned counsel for the petitioner has further apprised this Court that as per newspaper report placed on the file, mother of deceased Lalit has received an insurance claim of Rs.50,00,000/- from HDFC Bank, due to accidental death of Lalit. The entire story is concocted.

Heard.

A matrimonial dispute between Lalit and Saroj had resulted into homicide of Lalit. The complainant named 16 persons and a few unknown persons, who kidnapped Lalit. The photographs placed on the file show how brutally an unarmed person was being beaten and he died. The Ritz car used in the crime was recovered from co-accused Sanjay, which was registered in the name of one Bhan Singh. Bhan Singh made statement that the car in question was sold to the petitioner and possession of the same was also handed over to the petitioner. The petitioner is maternal uncle of Saroj, wife of the deceased. He was only named in the supplementary statement made by the complainant on 01.09.2022. It is a question of evidence whether the

petitioner participated in the crime or not. At this stage, it is too early to comment upon the same. The petitioner, being real maternal uncle of the wife of deceased, would have been noticed by the complainant. Had he been present there, his name would have been disclosed in the first statement. So, his presence at the time of kidnapping is doubtful. The petitioner was not there at the time of giving beatings to the deceased. The prosecution is relying on the disclosure statement of the petitioner as mentioned in the Status Report. Role of the petitioner is mentioned in para-11 of the Status Report, relevant extract of which is as under :-

“.....Thereafter, Sachin made call to Lalit who said that he is standing in Sector 16-17, Hisar with his friend. Then after seeing Lalit they stopped their vehicles and forcibly put Lalit in Bolero Camper, upon which Lalit started abusing. Then Sachin and Sumit along with two other boys slapped Lalit and all departed for Tosham Road, Hisar. It was disclosed by the petitioner that after reaching village Kaimri Ritz car broke down. Then petitioner along with Sanjay and Roshan Lal stood near the car and after arranging another vehicle they reached in the Dhani of Naveen. There Naveen, Sachin, Sumit @ Golu, Deepak, Mintu, Naveen @ Meen, Anil Sura, Soni Nayak, Anil Nayak and two other boys of Dhani Bhakra and three friends of Sachin and Sumit were sitting and found present who told that after giving beating to Lalit they have left him ahead of bus stand Kalod. Thereafter, all the accused persons disbursed in different directions and later on they came to know that Lalit had expired.”

A perusal of the record shows that the petitioner is not shown in any photograph. The culpability of the petitioner would be established during trial. The car, which has been used in the crime, was although owned by the petitioner but has already been recovered from Sanjay – brother-in-law of the petitioner.

Accordingly, without discussing the merits of the case, I am of the view that no useful purpose would be served with the further detention of the petitioner as the challan has also been presented. Keeping in view the fact that completion of trial will also take a long time, the present petition is allowed and the petitioner is directed to be released on regular bail, on furnishing bail bonds/surety bonds, to the satisfaction of learned Trial Court/Duty Magistrate concerned.

However, nothing contained herein above shall be construed as an expression of opinion on the merits of the case.

April 24, 2023
monika

(GURBIR SINGH)
JUDGE

Whether speaking/reasoned ?	Yes/No.
Whether reportable ?	Yes/No.