

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

CRM-M-7274-2023(O&M)

Date of Decision:-21.03.2023

Pawan.

.....Petitioner.

Vs.

State of Haryana.

.....Respondent.

CORAM:- HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present:- Mr. Anmol Partap Singh Mann, Advocate for the Petitioner.

Mr. Neeraj Poswal, Assistant Advocate General, Haryana.

JASJIT SINGH BEDI, J.(ORAL)

The Prayer in this petition under Section 439 Cr.PC is for the grant of regular bail in case FIR No.316 dated 13.07.2022 under Sections 302, 34 IPC (Sections 109, 120-B IPC added later on) registered at Police Station Bilaspur, District Gurugram.

2. The brief facts of the case are that the statement of Krishan son of Dharambir was recorded who stated that he worked in a company at Manesar. The elder son of his deceased brother namely Sumit @ Koki was studying in Class-12. On 12.7.2022 at about 3.30 pm when he (complainant) came home he did not find Sumit there. Ashish his (complainant's) son informed him that Sumit had gone with his friend Saurabh. An attempt was made to contact Sumit whose phone was switched off. Thereafter, he (complainant) called Saurabh who also did not give any satisfactory reply. Thereafter at night he (complainant) alongwith his cousin brother Dharambir and his friend Ajay reached at the house of Saurabh.

Saurabh informed them (complainant party) that Sumit had been left at the bus stand of village Mokalwas in the evening itself. However, despite a long search, Sumit could not be found. On 13.07.2022 when he (complainant) along with his family members reached the bus stand of Mokalwas, some people informed him that on 12.07.2022 they had seen Sumit going with Saurabh on a motor cycle. Subsequently the dead body of Sumit was discovered in a house near KMP Highway. On an enquiry it was revealed that Saurabh in connivance with his friends had murdered Sumit.

3. The Counsel for the petitioner contends that it is a case of a blind murder of Sumit nephew of Krishan. The FIR came to be registered on the basis of suspicion. The petitioner is not named in the FIR and no role has been attributed to him. Pursuant to the arrest of Saurabh he is stated to have made a disclosure statement that he had enmity with Sumit and on account of that fact he had hatched a conspiracy to murder Sumit along with his co-accused Sahil and the present petitioner-Pawan who were his co-villagers. In furtherance of the said conspiracy he (Saurabh) and Sahil had taken Sumit to a dilapidated house where they had murdered him with a brick. It is the contention of the counsel that there is no evidence inculcating the petitioner in the offence. Even the CCTV cameras installed at different locations did not show the petitioner ever in the company of the deceased. Even the statements under Section 161 Cr.PC of Chirag, Kapil and Ankur were recorded to the effect that Saurabh had brought the deceased Sumit with him. Saurabh had stated to Pawan (petitioner) that he (deceased) was the boy after which Pawan had gone away from the spot. These statements also did not further the prosecution case against the petitioner. In fact, there was no motive with the petitioner to commit the offence in question. It is lastly contended that the petitioner is in custody since 14.07.2022 and none

of the 37 prosecutions witnesses had been examined. Therefore, he was entitled to the grant of bail as he was otherwise a first time offender.

4. The Counsel for the State on the other hand while referring to the reply dated 20.03.2023 contends that juveniles Saurabh and Sahil were taken into custody and got recovered their mobiles phones and clothes worn at the time of occurrence along with the motor cycle used in the crime. They were produced before the Juvenile Justice Board and were sent to the Children Observation Home, Faridabad. The petitioner-Pawan was arrested and pursuant to his disclosure statement Section 109 IPC was added to the present case. He also got recovered his mobile phone through which he was in contact with the other accused. He further contends that all the accused had spoken to each other multiple times a day on 11.07.2022, 12.7.2022 and 13.07.2022. Therefore, it was established that the petitioner was also involved in committing the offence in question. In view of the nature of allegations levelled against the petitioner he is not entitled to the grant of bail.

5. I have heard the learned counsel for the parties.

6. The veracity of the prosecution case against the petitioner shall be adjudicated upon during the course of trial. Admittedly the petitioner is stated to be in custody since 14.07.2022. None of the 37 prosecution witnesses have been examined so far and, therefore, the Trial of the present case is not likely to be concluded anytime soon. The petitioner also does not have any criminal antecedents. Therefore, his further incarceration is not required.

7. Thus without commenting on the merits of the case, the present petition is allowed and the petitioner-**Pawan** son of Sh. Baljeet is ordered to be released on bail subject to his furnishing bail bonds and surety bonds to

the satisfaction of learned CJM/Duty Magistrate, concerned.

8. The petitioner shall appear before the police station concerned on the first Monday of every month till the conclusion of the trial and inform in writing each time that he is not involved in any other crime other than the present case.

9. In addition, the petitioner (or anyone on his behalf) shall prepare an FDR in the sum of Rs.1,00,000/- and deposit the same with the Trial Court. The same would be liable to be forfeited as per law in case of the absence of the petitioner from trial without sufficient cause.

10. If the petitioner or any of his family members/associates make any attempt to contract/threaten/intimidate the witnesses in the present case,the State would be at liberty to move an application for cancellation of bail granted vide this Court.

11. The petition stands disposed of.

(JASJIT SINGH BEDI)
JUDGE

March 21, 2023
Vinay

<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether reportable</i>	<i>Yes/No</i>