

CRM-M-9887-2023 (O&M)

220 (1st case)

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-9887-2023 (O&M)

Date of decision: July 19, 2023

Avnish

....Petitioner

versus

State of Haryana

....Respondent

CORAM: HON'BLE MR. JUSTICE ARUN MONGA**Present:-** Mr. Deepender Singh, Advocate for the petitioner.

Mr. Mohit Thakur, AAG Punjab.

Mr. Rajesh Lamba, Advocate for the complainant.

ARUN MONGA, J. (ORAL)

Petitioner seeks bail in a case bearing FIR No.85 dated 22.03.2022, registered under Sections 201, 302 of the Indian Penal Code, 1860 (for short 'IPC') (Section 392 of IPC added later on), at Police Station Mundkati, District Palwal.

2. Per First Information Report (FIR), on 22.03.2022, complainant Bhim Singh reported that when he was going for a walk in his fields of village Banchari, he saw one dead body lying there but could not identify the deceased. An FIR was registered in this regard against unknown persons and subsequently Section 392 IPC was added. On 26.03.2022 the dead body was identified to be of Sunil Kumar on the basis of his photographs and shoes by his son, wife and one Arun Kumar, owner of the looted car bearing registration No.DL-01-RTC-2777. During investigation, petitioner and his co-accused Satyaveer were arrested on 20.04.2022. They suffered individual disclosure statements admitting their complicity along with petitioner in hatching a conspiracy to loot the car being driven by the deceased and further committing his murder.

3. Learned counsel for petitioner submits that petitioner has been falsely implicated in this case. He submits that petitioner was not named in the FIR.

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Witnesses cited in the challan have not named the petitioner. Petitioner has been implicated on the basis of his disclosure statement, which has no evidentiary value. Prosecution story regarding murder of deceased with strangulation is not corroborated by medical evidence, which is annexed as Annexure P-4. Alleged recovery of PAN card and Aadhar card of the deceased is a planted one as alleged incident is of 22.03.2021 and petitioner was arrested on 20.04.2022.

4. Per contra, learned State counsel, assisted by learned counsel for complainant, opposes the bail petition. He submits that petitioner has committed a serious offence. He submits that during investigation, as per call details of mobile numbers of petitioner along with co-accused Satyaveer show the same to be in working condition at the place of occurrence on the relevant day. PAN card and Aadhar card of the deceased were recovered from the petitioner. He submits that there are total 27 witnesses and some private witnesses still remain to be examined. There is likelihood that petitioner may tamper with the evidence and influence the witnesses, in case he is released on bail.

5. I have heard rival contentions of learned counsels for the parties and have gone through the case file.

6. Testimony of prosecution witnesses is still underway. Given the nature of offence and role attributed to the petitioner, possibility of influencing/ intimidating the witnesses who are yet to depose, cannot be ruled out. In the premise, at this stage, no concession is being accorded to the petitioner.

7. In the premise, instant bail petition is dismissed with liberty to the petitioner to file fresh one before learned Court below after the testimony of private witnesses concludes. Needless to say, learned Court below shall proceed with a fresh look at the matter without being influenced with previous rejection of bail order.

8. It is made clear that any observations made and/or submissions noted hereinabove shall not have any effect on merits of the case as the same are for limited

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purpose of bail hearing alone and learned trial Court shall proceed without being influenced with this order.

9. Pending application(s), if any, shall also stand disposed of.

(ARUN MONGA)
JUDGE

July 19, 2023

mahavir

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No