

IN THE PUNJAB AND HARYANA HIGH COURT AT
CHANDIGARH

283

CRM-M-14010-2023

Date of Decision: 25.04.2023

NANKE

... Petitioner

VERSUS

STATE OF HARYANA

... Respondent

CORAM: HON'BLE MR. JUSTICE VINOD S. BHARDWAJ.

Present: Mr. Pradeep Chhoker, Advocate for the petitioner.

Mr. Vivek Chauhan, Addl. A.G., Haryana.

VINOD S. BHARDWAJ, J. (ORAL)

This second application has been filed for seeking regular bail for the petition in case bearing FIR No.268 dated 07.12.2019, under Section 302 and 201 read with Section 34 of the Indian Penal Code, 1860 registered at Police Station Linepar Bahardurgarh, District Jhajjar.

As per prosecution case, on 07.12.2019, a telephonic information was received that dead body of a person is lying in the fields of village Parnala. ASI Vijay Pal along with other police officials reached the spot and found one bag near the dead body. They took out the articles from the bag and found Aadhar card of Babu Ram and receipt of some money transaction with telephone numbers from the trouser of the deceased. Thereafter, they contacted the persons known to deceased Babu Ram. After sometime, one Nanke came at the spot and made statement that he is working as a labourer. About 7-8 persons of his village also reside in Bahadurgarh and are working as labourers. On 05.12.2019, Malti Devi, wife of deceased Babu Ram made a telephonic call to him (Nanke) and told that Babu Ram will come to Bahadurgarh and he will also work as labourer. She

asked Nanke to receive Babu Ram from Railway Station in the evening. On 05.12.2019, in the evening, when Nanke went to Railway Station to receive Babu Ram, he did not find him there. Thereafter, Nanke informed the wife of Babu Ram that Babu Ram did not arrive. Next day i.e. on 06.12.2019, Nanke again searched for Babu Ram at Railway Station and nearby places. On 07.12.2013, he got information through telephone that dead body of Babu Ram was lying in the fields of Parnala. Upon receiving this information, he reached the spot and identified the dead body. On 08.12.2019, Kallu, father of deceased Babu Ram, arrived and stated to the police that he has suspicion that his son Babu Ram was murdered by Nanke (petitioner herein) in connivance with his friend Dheeraj. With the aforesaid allegations, the aforesaid FIR was registered against the petitioner and he was arrested in the present case.

Learned counsel for the petitioner contends that the petitioner himself was the informant to the police about the incident in question and has, thereafter, been implicated in the present case by effecting recovery of a mobile phone and a knife purportedly at the disclosure statement of the petitioner himself. He contends that the petitioner is in custody since 09.12.2019 and has already undergone the actual custody of more than three years. There are as many as 20 witnesses to be examined by the prosecution, however, only three witnesses have been examined so far. It is further averred that the case in question is based on circumstantial evidence of last seen and the surrounding circumstantial evidence is not sufficient at this stage to link the accused with the commission of the aforesaid offence.

Learned State Counsel, on the other hand, contends that the recovery of blood stained knife and a mobile phone of the deceased including the last three calls made by him clearly establishes that the petitioner was accompanying the

deceased. The circumstances in which the death has occurred highly indicate towards the commission of offence by the petitioner himself. He, however, is not in a position to controvert the fact that the petitioner has already undergone the actual custody of more than three years and only three prosecution witnesses out of 20 have been examined so far. It is further not disputed that there are no other criminal antecedents of the present petitioner.

I have heard the learned counsel for the respective parties and have also gone through the documents appended alongwith the present petition with their able assistance.

Taking into consideration the fact that the case is based on circumstantial evidence of last seen, absence of criminal antecedents of the petitioner, period of actual custody and the present status of trial, I deem it appropriate to enlarge the petitioner on regular bail.

Accordingly, the present petition is allowed and the petitioner is admitted to regular bail on his furnishing adequate bail/surety bonds to the satisfaction of trial Court/Duty Magistrate concerned.

It is made clear that the petitioner shall not extend any threat and shall not influence any prosecution witnesses in any manner directly or indirectly.

The observations made hereinabove shall not be construed as an expression of opinion on the merits of the case and the trial Court shall decide the case on the basis of available material.

Petition stands allowed accordingly.

25.04.2023
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(VINOD S. BHARDWAJ)
JUDGE

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No