

CRM-M-17271-2023
Date of Decision:27.07.2023

Vs.

Coram : Hon'ble Mr. Justice N.S.Shekhawat

Mr. Gaurav Gurcharan Singh Rai, DAG, Haryana.

N.S.Shekhawat J.

2. As per the case set up by the prosecution, on 23.07.2019 an information was received by the police that on Bhiwani Road, Jind a person had been killed in the truck and the dead body was lying in the cabin of the truck. On getting this information, the police officials reached at the spot and noticed that Trola (Big Truck) No.HR46D-2297 was parked there. The dead body of a person, having stains of blood and screw driver inserted in his neck, was noticed by the police. From the mobile number, which was mentioned on the truck, its owners Madan Lal was called at the spot and the owner disclosed the name of the deceased as Ganesh cleaner. Since Madan Lal son of Ramphal, resident of VPO Kharak Punia, Tehsil Barwala, District Hisar got his statement

recorded, wherein he mentioned that he was running a transport company at New Grain Market, Karnal and was the owner of the Trola (Big Truck) in question. He had employed Rahul son of Suresh Pal as driver and Ganesh, since deceased as a cleaner. At about 09:30 PM on 22.07.2019, he got rice loaded in his truck from Bala Ji Transport Moonak and the truck was sent to Bahalgarh, District Sonapat. On 23.07.2019, he had received an information that a dead body was lying in the cabin of the truck and on getting this information, he reached at the spot and identified the dead body of Ganesh, cleaner. Later on, he received a call from Rahul, accused, who told the complainant that he had quarrelled with Ganesh on 23.07.2019 and he had killed Ganesh in the Trola (big truck). Even Rahul had also disclosed the location of Trola and the place where it was parked. Consequently, the FIR was got registered by the complainant by stating that the cleaner had been killed by his driver Rahul, accused. On the basis of the said statement, the FIR under Section 302 IPC was ordered to be registered against Rahul, petitioner.

3. The petitioner had earlier filed a petition for grant of regular bail in the present case, however, the same was withdrawn on 25.04.2022. The petitioner has filed the second petition on the ground that the petitioner is in custody since 15.12.2019 and the trial is still at the initial stage and this may be considered as change of circumstance for filing the present petition before this Court.

4. Learned counsel for the petitioner contends that it was a case of blind murder and no body had witnessed the alleged occurrence. The present petitioner had no enmity with the deceased and had no reason to commit the murder of Ganesh, cleaner as both of them were employed on the same truck

since long and had no dispute with each other. Learned counsel further submits that even no incriminating evidence had been recovered from the possession of the petitioner and even there was only one injury on the person of the deceased, so the intention to cause death was also absent. He further contends that he was arrested in the present case on 15.12.2019 and only two witnesses out of total 19 witnesses have been examined and the trial was progressing a snails pace. Madan Lal, complainant/owner of the truck had been examined as PW-1, who had implicated Rahul son of Suresh Pal, whereas the name of the petitioner is Rahul son of Soraj Singh and even the identity of the petitioner was not established.

5. Learned State counsel has vehemently opposed the prayer made by the petitioner on the ground that he is the main accused and had been attributed the fatal blow. Even the delay in conclusion of the trial is no ground to grant the concession of bail to the present petitioner.

6. I have heard learned counsel for the parties and considered their rival submissions in the light of the record produced before the Court.

7. In number of judgments, the Hon'ble Supreme Court has held that seriousness of the charge is, no doubt, one of the relevant consideration while considering the bail applications, but that is not the only factor. The other factors that also requires to be taken note of is the punishment that could be imposed after trial; chances of influencing the witnesses; danger of accused; absconding from the process of law; character; behaviour; means and position of the accused; likelihood of the offence being repeated; danger of justice being thwarted by grant of bail etc. Ultimately, the grant or refusal to grant bail lies with the discretion of the Court and the above mentioned factors largely

influence the decision of a Court in deciding the bail application. Apart from the above factors, one more additional factor, which is essentially taken into consideration by the Courts is the delay in concluding the trial. Sometimes, the trial gets delayed without any fault on the part of the accused and this violates Article 21 of the Constitution of India, because every accused has also a right to speedy justice. Sometimes, when the trial gets delayed unnecessarily, it is not in the interest of justice that the accused should be detained in jail for an indefinite period. In the present case also, no doubt the facts of the case clearly indicate the gravity of the offence and the present petitioner is facing a serious charge, but in the considered opinion of the Court, that, by itself, should not deter the Court from allowing the present bail application, when there is no serious contention of the State that the accused, if enlarged on bail, would interfere with the trial or tamper with the evidence. Apart from that, the Court is also conscious of the fact that the petitioner is languishing in jail since 15.12.2019 i.e over 03 years and 07 months and the prosecution had only examined 02 witnesses out of total 19 witnesses in the present case. Apart from that, the most material witness Madan Lal, complainant has already been examined as PW-1 and there are no chances of tampering with the prosecution evidence.

8. Without commenting on the merits of the case, the present petition is allowed. The petitioner is ordered to be released on bail pending trial on his furnishing bail bonds and surety to the satisfaction of the concerned trial Court/ Duty Magistrate/Chief Judicial Magistrate.

9. It is also ordered that the petitioner shall remain present before the learned Trial Court on the dates fixed for hearing of the case and any absence without any prior permission of the Court, shall be viewed seriously. He shall

not directly or indirectly give any inducement, threat or promise to any person acquainted with the facts of the case. Even during the pendency of the trial, he shall not involve in any other criminal activity. The learned Trial Court is also at liberty to impose such conditions, as it may feel appropriate, in accordance with law. In case, the petitioner violates any terms of the order granting bail, the prosecution would be at liberty to move an application for cancellation of bail, granted to the present petitioner.

27.07.2023
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(N.S.SHEKHAWAT)
JUDGE

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