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**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CRM-M-23909-2023

Date of Decision: 19.09.2023

Sagar

...Petitioner

VS.

State of Haryana

...Respondent

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

Present : Mr. Naveen Kundu, Advocate
for the petitioner.

Ms. Sheenu Sura, DAG, Haryana.

N.S.Shekhawat J. (Oral)

1. Reply by way of an affidavit of Station House Officer, Panipat has been filed on behalf of the respondent in Court today and the same is taken on record.

2. The petitioner has filed the instant petition under Section 439 of the Cr.P.C. with a prayer to grant a regular bail in case FIR No.171 dated 24.08.2022 registered under Sections 302/201 of IPC (Section 34 of IPC added later on) at Police Station Sadar, District Panipat.

3. As per the case of the prosecution, the FIR in the present case was got registered by Joginder Singh, complainant. As per him, at about 6.30 am on 24.08.2022, when he went to see his crops, he found the dead body of some unknown person lying in the field and even the paddy crop was destroyed at the spot. The face of the deceased was buried in the paddy soil and there was wet soil around the head of the deceased. The complainant called the neighbours

including Narendra and Tejbir and later on, informed the police. As per the complainant, some unknown persons had caused injuries to the deceased and by after causing the murder, the dead body was thrown in the fields.

4. Learned counsel for the petitioner submits that in the present case, FIR was registered against unknown persons and there was no averment in the FIR, which even remotely connected the petitioner with the alleged crime. However, during the course of investigation, Sahab Singh and Amit had allegedly produced the petitioner and his co-accused Sunil before the police and it was alleged that the petitioner and Sunil had committed the murder of the deceased. He further contends that the petitioner was arrested in the present case on 13.09.2022 and a recovery of *danda* was planted on him. He further contends that during the course of trial proceedings, the statements of three material witnesses Ravi son of Subhash, Ashish son of Mehar Singh and Sahab Singh son of Zile Singh have been recorded and all the three witnesses have turned hostile in the present case. Learned counsel further submits that three other independent witnesses were formal in nature and there was no other evidence against the present petitioner. Learned counsel for the petitioner further submits that his further custody will serve no meaningful purpose.

5. On the other hand, learned State counsel has vehemently opposed the prayer made by learned counsel for the petitioner on the ground that the petitioner was one of the main accused, who had caused injuries to the deceased and a *danda* has been recovered from him. Learned State counsel further submits that the cause of death in the present case was due to asphyxia and many injuries were found on the body of the deceased.

6. I have heard the learned counsel for the parties and perused the record.

7. It is not in dispute that three material witnesses i.e. Ravi son of Subhash, Ashish son of Mehar Singh and Sahab Singh son of Zile Singh have already been examined as PW-1 to PW-3, respectively and their testimonies have been filed as Annexures P-2 to P-4. All the three witnesses have not supported the case of the prosecution. Apart from that, the petitioner is in custody for the last more than one year and no useful purpose would be served by keeping him behind the bars.

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

19.09.2023
hemlata

(N.S.SHEKHAWAT)
JUDGE

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