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. 2023:PHHC:160652
**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

**CRM-M-26749-2023
Date of Decision:14.12.2023**

Sandeep Kumar

...Petitioner

vs.

State of Haryana

...Respondent

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

Present : Mr. Nirmal Singh, Advocate
for the petitioner.

Mr. Rajiv Sidhu, DAG, Haryana.

N.S.Shekhawat J. (Oral)

1. The petitioner has filed the present petition under Section 439 Cr.PC with a prayer to grant regular bail in case FIR No. 29 dated 16.01.2022, registered under Section 346 of IPC (Sections 302 of IPC added later on), Police Station Naraingarh, District Ambala (Annexure P-1).

2. Learned counsel for the petitioner submits that as per the story of the prosecution, at about 06:00 PM on 15.01.2022, Happy, since deceased had left home without informing anyone. His deadbody was found on 16.01.2022 and there were injuries on all over the body. Consequently, the FIR was registered against unknown persons. Learned counsel further contends that in FIR (Annexure P-1), no physical description of any kind of the accused was also mentioned. Initially, on 16.01.2022, the supplementary statement of the complainant was recorded, wherein, she had raised the suspicion on Veena, with whom deceased was living in live-in-relationship. However, on 02.08.2022, a supplementary statement of the complainant was recorded and on the basis of

the said supplementary statement, the petitioner was ordered to be arrested on 03.08.2022. Learned counsel further contends that it was a case of blind murder and except the supplementary statement dated 02.08.2022 of the complainant, there was no other evidence to connect the petitioner with the alleged crime. He further contends that out of total 29 witnesses 09 witnesses have already been examined by the prosecution. Even the complainant and private witnesses have already been examined by the prosecution and there are no chances of tampering with the prosecution evidence. The petitioner was arrested in the present case on 03.08.2022 and is in custody for the last more than 01 year and 04 months. He further contends that the petitioner is a first offender and his further custody will not serve any meaningful purpose.

3. 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 specifically named in the supplementary statement dated 02.08.2022 and only the accused is facing the prosecution in the instant case. He further contends that in the present case, a spade has already been recovered from the present petitioner, however, he admits that the said spade was not blood stained.

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

5. From the record it is evident that till 02.08.2022, there was no incriminating evidence against the petitioner and on the basis of the supplementary statement, which was recorded after a period of 07 months of the occurrence, the petitioner has been arrayed as an accused in the present case. Apart from that, the material witnesses of the prosecution have already been examined and there is no likelihood of tampering with the prosecution

evidence. The prosecution has only to examine the official witnesses before the Trial Court. Apart from that, the petitioner is a first offender and was not involved in any other criminal activity earlier.

6. 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 subject to the following conditions:-

(i) The petitioner shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case, so as to dissuade him to disclose such facts to the Court or to any other authority.

(ii) The petitioner shall remain present before the Court on the dates fixed for hearing of the case.

(iii) The petitioner shall not absent himself from the Court proceedings except on the prior permission of the Court concerned.

(iv) The petitioner shall surrender his passport, if any, (if already not surrendered), and in case he is not holder of the same, he shall swear an affidavit to that effect.

(v) The petitioner shall also file his affidavit before the concerned Court, mentioning his ordinary place of residence and number of mobile phone, which shall be used by him during the pendency of the trial. In case of change of place of residence/mobile number, he shall share the details with the concerned Court/learned Trial Court.

(vi) *In case, the petitioner is involved in any other criminal activity, during the pendency of the trial, it shall be viewed seriously.*

(vii) *The concerned Court may insist on two heavy local sureties and may also impose any other condition, in accordance with law, while accepting the bails bonds and surety bonds of the petitioner.*

(viii) *The petitioner shall report every 1st Monday of English calender month before the concerned SHO till the conclusion of the trial and SHO shall mark his presence by making an entry in the Rojnamcha.*

7. In case, the petitioner violates any of the conditions mentioned above, it shall be viewed seriously and the concession of bail granted to him shall be liable to be cancelled and the prosecution shall be at liberty to move an application in this regard.

14.12.2023
hitesh

(N.S.SHEKHAWAT)
JUDGE

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