

217 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-35009-2023

Date of Decision: 25.09.2023

Nafiz Khan

...Petitioner

VS.

State of Haryana

...Respondent

Coram : Hon'ble Mr. Justice N.S.Shekhawat**Present :** Mr. Parveen Kaushik, Advocate
for the petitioner.

Ms. Sheenu Sura, DAG, Haryana.

N.S.Shekhawat J. (Oral)

1. Status report by way of an affidavit of Deputy Superintendent of Police Bahadurgarh, District Jhajjar has been filed on behalf of the respondent-State 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 regular bail to him in case FIR No.0261 dated 12.10.2020 registered under Sections 302, 404, 34 of IPC and Section 25 of Arms Act, at Police Station, Sector-6, Bahadurgarh, District Jhajjar.

3. The FIR in the present case was got registered by Sajjan Kumar son of Shube Singh by alleging that his nephew, namely, Vijay, was working at Indian Footwear Clothing Pvt. Ltd., Bahadurgarh since last 8-10 years. He was staying in rented accommodation at BPL Flat No.255FF, Omex City, Bahadurgarh. On 12.10.2020, he was informed that his nephew-Vijay had died. On getting this information, the complainant reached the flat of Vijay and

enquired about his death and he came to know that on the night intervening 11/12.10.2020, Vijay (since deceased) had consumed liquor with Nafiz Khan, petitioner/accused and Ajij Khan, co-accused at his flat and did not go to the Company. In fact, when the room partner of Vijay, namely, Deepak Naager came to the flat, he found that the flat was locked from outside and motorcycle of Vijay was parked outside and mobile phone was also switched off. Deepak Naager got the locks of flat opened and found that Vijay was lying on the floor in injured condition and the dead body was smeared with blood. It was found that Vijay had been killed by someone by causing injuries with sharp edged weapon. With the aforesaid allegations, the FIR in the present case was got registered by Sajjan Kumar.

4. Learned counsel for the petitioner submits that in the present case, the petitioner was arrested on 13.10.2020 and is in custody for the last about 02 years and 11 months. He further submits that in the present case, only 10 witnesses, out of total 42 witnesses, have been examined so far and the trial Court may take quite a long time in concluding the trial. Learned counsel further relies upon an order dated 31.05.2023 passed by a Co-ordinate Bench of this Court in CRM-M-17531-2023 titled as “Ajij Khan Vs. State of Haryana”, whereby, similarly placed co-accused was granted the concession of bail by this Court.

5. On the other hand, learned State counsel has opposed the prayer made by learned counsel for the petitioner and submitted that blood stained clothes and shoes and one blood stained sickle (Darat) were recovered from the present petitioner and there was sufficient evidence to prove the complicity of the petitioner in the commission of crime. However, she is not able to dispute

the fact that the similarly placed co-accused Ajij Khan has already been granted the bail by this Court vide order dated 31.05.2023 (Annexure P-3).

6. I have heard learned counsel for the parties and I am of the considered opinion that in view of the parity of the case of the petitioner, the instant petition also deserves to be allowed by this Court. In the present case, the petitioner was arrested on 13.05.2020 and is in custody for almost 3 years. Consequently, any further incarceration of the petitioner in the present case would be violative of Article 21 of the Constitution of India.

7. Thus, 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, 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 involves in any other criminal activity, during the pendency of the trial, it shall be viewed seriously and the prosecution shall be at liberty to move a petition for cancellation of bail granted to him.*
- (vii) *The concerned Court may insist on two heavy local surties and may also impose any other condition, in accordance with law, while accepting the bail bonds and surety bonds of the petitioner.*
- (viii) *The petitioner shall report every 1st Monday of English calander month before the concerned SHO till the conclusion of the trial and SHO shall mark his presence by making an entry in the rojnamcha. In case, he does not report on every 1st Monday before the concerned SHO, it shall be viewed seriously and the concession granted to him shall be liable to be cancelled and the State of Haryana shall be at liberty to move an appropriate application in this regard.*

25.09.2023
hemlata

(N.S.SHEKHAWAT)
JUDGE

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