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

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CRM-M-40134-2023

Date of decision : 22.08.2023

Amar Singh**..... Petitioner****versus****State of Haryana****..... Respondent****CORAM : HON'BLE MR. JUSTICE PANKAJ JAIN**

Present: Mr. Punit Malik, Advocate
for the petitioner.

Mr. Ashok Kumar Sehrawat, DAG, Haryana.

PANKAJ JAIN, J. (Oral)

Present petition has been filed under Section 439 Cr.P.C. for grant of regular bail to the petitioner in case bearing FIR No.445 dated 14.12.2020, registered for offences punishable under Sections 302, 201 and 404 of IPC, 1860 at Police Station Sector-29, DLF, District Gurugram.

2. It is a case of circumstantial evidence, wherein the petitioner has been nominated on the basis of mobile phone belonging to the deceased having been recovered from Braham Parkash. As per the disclosure made by Braham Parkash, he brought the said mobile phone from Yogesh Kumar.

3. Counsel for the petitioner has referred to the disclosure statement made by Yogesh Kumar which reads as under:-

“Stated that I am resident of above said address and work as Home Guard. In December 2020 I was working at Lemon Tree Chowk South

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city 1, Gurugram as Traffic Instructor. In March 2021 I went to Narnaul and presently I am working at Bajad Naka, PS Ateli, Mabendargarh. When I was working at Gurugram then Amar Singh S/o Ram Swaroop who belongs to my village was working as security guard at Paras Hospital and was residing with his family at Indra Colony on rent. He used to come at my Traffic Booth and we also used to speak on phone. On 31.12.2020 I called Amar Singh and told him to purchase vegetables and Amar Singh after completing his duty hours came to me at 09:00 PM along with a boy, whose name I do not know and both of them were on a gray coloured scooty. Amar Singh was wearing his uniform and the other boy was hanging a bag pack. Amar Singh and the other boy were drunk and were also carrying a bottle along with them. Amar Singh and other boy drink one peg at my booth, on which I objected and asked them to leave. After 5-7 minutes they left the booth and I do not know where they went. At around 10.00 PM Amar Singh alone came back at my traffic booth and was hanging a back pack, I do not know where the other boy was left. Amar Singh then told me and showed that a mobile phone is lying near the traffic booth and said lets grab it. I came out with Amar Singh and I picked up the said phone and checked that it was without sim. I kept the mobile phone in the traffic booth and said that if somebody inquires then I will tell him. Amar Singh left for his room after 15-20 minutes on his scooty but I do not know where he went. After two days Amar Singh came at my traffic booth along with his priya and asked to give the phone which they found two days prior. I

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handed over the phone to Amar Singh and after 15-20 minutes Amar Singh left with his wife along with a phone. After a week when I went to my village Saloni then Amar Singh told me that the said phone is locked and he cannot use it and handed it over to me. I again kept the phone in the traffic booth and after few days I handed over the said phone to Braham Parkash @ Bittu S/o Ramesh Kumar Yadav on his asking but Braham Parkash also could not use it, so he also handed it over back to me 4-5 days back. I then handed it over to Amar Singh. Now Amar Singh can tell regarding the said mobile phone. I have recorded my statement at Village Saloni in the house of Braham Parkash. Statement heard and found correct.”

4. Counsel thus submit that even if the same is taken as gospel truth, it does not in any manner incriminate the petitioner.

5. Learned State counsel is not in a position to dispute the fact that apart from the disclosure made by Yogesh Kumar w.r.t. the mobile being in possession of the present petitioner, there is no incriminating evidence against him. Apart therefrom the petitioner has faced incarceration for more than 02 year and 01 month. Trial has proceeded. 06 material witnesses, out of 31 already stand examined.

6. Keeping in view the above facts and circumstances, the present petition is allowed. Petitioner is ordered to be released on regular bail on his furnishing bail/surety bonds to the satisfaction of the Ld. Trial Court/Duty Magistrate, concerned.

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7. Needless to say nothing recorded herein shall be construed to be an expression of an opinion on the merits of the case.

(PANKAJ JAIN)
JUDGE

22.08.2023
Dinesh

Whether speaking/reasoned :	Yes
Whether Reportable :	No