

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH
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CRM-M-43032-2022

Date of Decision: 27.04.2023

Shivam Kumar

.... Petitioner

Versus

State of Haryana

.... Respondent

CORAM: HON'BLE MR. JUSTICE ASHOK KUMAR VERMA

Present: - Mr. R.S. Dhull, Advocate for the petitioner.

Mr. G.S. Dhillon, AAG, Haryana.

ASHOK KUMAR VERMA, J. (ORAL)

1. Custody certificate dated 26.04.2023, filed by learned counsel for the State is taken on record.
2. The petitioner has filed the present petition under Section 439 Cr.P.C., for grant of regular bail in case FIR No. 376 dated 31.07.2019 registered under Sections 302, 201 and 120-B IPC at Police Station Shahabad, District Kurukshetra.
3. According to the prosecution story, the petitioner along with his co-accused used to buy drugs from deceased-Sandeep Kumar and were indebted to him. In order to avoid making payment, the petitioner in connivance with his co-accused, namely, Ajay Kumar and Krishan Gopal @ Kittu, hatched a criminal conspiracy and in pursuance thereof, one day prior to the occurrence called deceased-Sandeep Kumar at the

place of occurrence, where they killed him. The incident was videographed by co-accused-Krishan Gopal @ Kittu. During investigation, the petitioner and his co-accused were arrested by the police.

4. Learned counsel, *inter alia*, contends that the petitioner has falsely been implicated in the present case. Allegations levelled against the petitioner are frivolous. He has been roped in this case only on the basis of suspicion and certain call detail records. Learned counsel further contends that though a person can be seen in the video of the alleged incident prepared by co-accused-Krishan Gopal @ Kittu, but face of the petitioner is not visible in the said video. PW-20 Neetu Rani, wife of deceased-Sandeep Kumar, was declared hostile as she has not supported the prosecution version. Petitioner is the first offender and is not involved in any other case. Out of total 39 prosecution witnesses, 24 have already been examined. Petitioner is in custody since 15.09.2019 i.e. more than 3 years. The trial is likely to take long time. No useful purpose will be served by further detention of the petitioner in custody. More so, co-accused of the petitioner, namely; Krishan Gopal @ Kittu and Ajay Kumar, have already been enlarged on bail by co-ordinate Benches of this Court, vide orders dated 19.07.2022 and 19.04.2021 (Annexure P-3 and P-4, respectively). Thus, it is prayed that treating the case of the petitioner on the same parity as that of his co-accused, he may be released on regular bail.

5. On the other hand learned State counsel vehemently opposed the submissions of learned counsel for the petitioner submitted that the petitioner in connivance his co-accused, namely, Ajay Kumar

and Krishan Gopal @ Kittu, hatched a criminal conspiracy and in pursuance thereof, one day prior to the occurrence called deceased-Sandeep Kumar at the place of occurrence, where they killed him. The incident was videographed by co-accused-Krishan Gopal @ Kittu, wherein, the petitioner was seen bludgeoning the deceased with heavy stones. Thus, learned counsel for the State prays for dismissal of the instant petition.

6. Keeping in view the facts and circumstances of the case, the fact that PW-20 Neetu Rani, wife of deceased-Sandeep Kumar turned hostile, period of long incarceration suffered by the petitioner; that petitioner is not involved in any other and treating the case of the petitioner on the same parity as that of his co-accused, namely, Krishan Gopal @ Kittu and Ajay Kumar, who have already been enlarged on bail by this Court, but without commenting anything on merits of the case, the present petition is allowed.

7. Petitioner-Shivam Kumar, is ordered to be released on regular bail on his furnishing bail/surety bonds to the satisfaction of the trial Court/Duty Magistrate/Chief Judicial Magistrate, concerned.

27.04. 2023

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**(ASHOK KUMAR VERMA)
JUDGE**

Whether speaking/reasoned

Yes/No

Whether Reportable

Yes/No