

**(218) IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

CRM-M-43449-2022

Date of Decision:24.01.2023

MANISH KUMAR ALIAS MUNISH KUMAR ALIAS MANI PANTER

... Petitioner

Versus

STATE OF HARYANA

...Respondent

CORAM: HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present: Mr. Ram Kumar Saini, Advocate
for the petitioner.

Mr. Kanwar Sanjiv Kumar, Asstt. A.G., Haryana.

JASJIT SINGH BEDI, J.

The petitioner seeks the grant of regular bail under Section 439 Cr.P.C. in case bearing FIR No.512 dated 25.11.2021 (Annexure P-1) registered under Section 302 IPC (Sections 201, 120-B IPC, 1860), Section 18 of NDPS Act, 1985 and Sections 25-54-59 of Arms at Police Station Taraori, District Karnal.

2. The present FIR came to be registered at the instance of Gurdeep Singh son of Pyara Singh who stated that his son Amandeep Singh had left G. Laboratory, Medicine Company, Uchani at 07.40 PM on 24.11.2021. However, he had not reached home till the morning and they were searching for him. At 10.50 A.M., he received a telephonic call to the effect that the bike of his son bearing No.HR-05AZ-3099 was lying parked near the Gurdwara at G.T. Road, Nilokheri and the body of his son was also lying near the bike.

Some person had committed the murder of Amandeep and he had been attacked on the head from the backside.

Pursuant to the registration of the FIR, the place of occurrence was inspected. The motorcycle, keys and bloodstained leaves were recovered. Along with the said articles, a wooden comb, a *Baaz Loha*, spectacles, one empty plastic container of white colour, red turban, two blue pieces of cloth (Patkas) and one black colour strip (patti) along with a handkerchief was also recovered. The said articles were taken into possession vide a recovery memos.

A black colour substance in a white polythene lying near the body of the deceased was weighed and was found to be 22.560 gms.

During the course of investigation, the statements of witnesses were recorded. The co-accused of the petitioner namely Harshpal alias Sunny, Kunal son of Gurcharan and Ravinder Kaur alias Rimpay wife of Amandeep Singh (since deceased) were arrested on 28.11.2021.

The accused suffered their disclosure statements separately and Ravinder Kaur alias Rimpay got recovered her mobile phone make Vivo. Thereafter, the petitioner also came to be arrested in the present case.

3. The learned counsel for the petitioner contends that there are two specific pieces of evidence against the petitioner. Firstly, a vehicle make Toyota bearing No.HR-06Z-8959 has been recovered from the petitioner. This is the vehicle in which all the accused were stated to be travelling when the offence was committed. However, the recovery does not further the case of the prosecution as other than the disclosure statement referring to the use of

the vehicle, there is no substantive evidence to suggest that in fact, the accused were travelling in the vehicle driven by the petitioner.

He contends that so far as the location of the phone of the petitioner at the alleged place of occurrence is concerned, that is also insufficient to affix liability upon the petitioner. At best, it would show that the petitioner was present at or around the place of occurrence and nothing more. Since the petitioner was in custody since 01.12.2021 and only 01 prosecution witness had been partly examined out of the 26 prosecution witnesses, the further incarceration of the petitioner was not required and he be granted the concession of bail.

4. A reply dated 22.01.2023 by way of an affidavit of Gaurav Fogat, HPS, Deputy Superintendent of Police, Karnal-II, Haryana has been filed by the learned State counsel and the same is taken on record. He contends that the petitioner was arrested on 01.12.2021. Pursuant to his arrest, his mobile phone make Oppo was recovered. As per the disclosure statement of the petitioner and his co-accused, Harshpal alias Sunny, the main accused was sitting on the back seat of the vehicle whereas Kunal and the present petitioner were sitting on the front seats of the vehicle when the vehicle was stopped a little ahead of the Gurdwara waiting for Amandeep (since deceased) to arrive. Co-accused Harshpal alias Sunny had disclosed that he had told his co-accused Kunal and the petitioner that Amandeep (deceased) was the person they all were waiting for. Thus, it was crystal clear that the present petitioner was actively involved in the commission of the murder of Amandeep. A hammer and a knife was recovered at the instance of Harshpal alias Sunny. A burnt and broken mobile phone of Amandeep (deceased) was also got recovered. Therefore, merely because the petitioner was in custody since 01.12.2021 and only 01 out of the 26

prosecution witnesses had been examined was no ground to grant bail to him keeping in view the nature of allegations levelled against the petitioner and his co-accused.

5. I have heard the learned counsel for parties.

6. As per the case of the prosecution, Ravinder Kaur alias Rimpay, the wife of the deceased was in a relationship with Harshpal alias Sunny. Therefore, the deceased was murdered. So far as the evidence against the present petitioner is concerned, there is the disclosure statement of Harshpal alias Sunny, whereby, he has purportedly detailed the manner in which the occurrence took place. Other than that there is the purported phone locations of the petitioner to suggest that he along with the co-accused and the deceased were present on or around the place of occurrence at the time in question. The recovery of the vehicle in which the accused were travelling is shown to have been effected from the petitioner. The said evidence shall be evaluated during the course of Trial so as to ascertain the culpability if any of the petitioner. At this stage, the petitioner is stated to be in custody since 01.12.2021. Only 01 prosecution witness has been partly examined out of the 26 prosecution witnesses. The petitioner is a first time offender with no criminal antecedents. As such, the further incarceration of the petitioner is not required.

7. Thus without commenting on the merits of the case, the present petition is allowed and the petitioner-Manish Kumar @ Munish Kumar @ Mani Panter son of Jagdish Lal is ordered to be released on bail subject to his furnishing bail bonds and surety bonds to the satisfaction of learned CJM/Duty Magistrate, concerned.

8. The petitioner shall appear before the police station concerned on the first Monday of every month till the conclusion of the trial and inform in writing each time that he is not involved in any other crime other than the present case.

9. If the petitioner or his family members/associates make any attempt to contact/threaten/intimidate the witnesses in the present case, the State would be at liberty to move an application for cancellation of bail granted vide this order.

10. In addition, the petitioner (or anyone on his behalf) shall prepare an FDR in the sum of Rs.1,00,000/- and deposit the same with the Trial Court. The same would be liable to be forfeited as per law in case of the absence of the petitioner from trial without sufficient cause.

11. The petition stands disposed of.

(JASJIT SINGH BEDI)
JUDGE

24.01.2023

JITESH

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