

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARHCRM-M-47874 of 2022(O&M)
Date of Decision: 04.05.2023

Anil @ Ganni

...Petitioner

Versus

State of Haryana

...Respondent

CORAM :HON'BLE MR. JUSTICE KARAMJIT SINGH

Present:- Mr. Rahul Sidher, Advocate
For the petitioner.

Mr. Naveen Sheoran, DAG Haryana.

KARAMJIT SINGH, J.

1. The present petition has been filed by the petitioner under Section 439 Cr.P.C. seeking regular bail in case having FIR No. 0005 dated 03.01.2021, registered under Sections 302 read with Section 34 IPC at Police Station Sadar Hansi, District Hansi, to which offence under Section 364 IPC was added lateron.

2. The allegations in nutshell are that on 02.01.2021 complainant Sandeep Kumar reported to the police that his brother Mukhtiar Singh (deceased) and nephew Sahil were working at the house of Kishori Lal where Mukhtiar Singh received several phone calls. Thereafter, Mukhtiar Singh came to his house and after taking tea at about 4/4:30 p.m. when to village Dhana Kalan to take measurement. That his cousin Mukesh told him that Mukhtiar Singh had gone towards Dhana Kalan in a white color car. At

about 7:00 p.m. when complainant phoned Mukhtiar Singh, he told the complainant that he would come after one hour but thereafter Mukhtiar Singh did not return and there was no response to his phone call also. On 03.01.2021 at about 11:00 a.m. the complainant received information that one dead body was found near the road of village Kharkhara and on reaching there the dead body was found to be that of Mukhtiar Singh who was murdered by some unknown persons. During investigation, petitioner Anil was arrested and he suffered disclosure statement and got recovered one mobile phone stated to be that of deceased.

3. The counsel for the petitioner, *inter alia*, submits that FIR in this case was registered against unknown persons who committed murder of Mukhtiar Singh and the entire case is based on circumstantial evidence and that the petitioner is in custody for the last more than 02 years and 03 months and is having no criminal history and during trial complainant Sandeep and one Mukesh Kumar who is stated to have lastly seen the deceased in company of the petitioner are examined and copies of their statements are Annexures P-2 and P-3. The counsel for the petitioner further submits that the complainant was not witness to the alleged occurrence and aforesaid Mukesh while appearing in the witness box has not supported the case of prosecution. So, prayer is made that the petitioner who is incarcerated for the last 02 years and 03 months be granted bail.

4. The present petition is contested by the State counsel who has filed status report by way of affidavit of Satish Kumar, Deputy Superintendent of Police, Narnaund, District Hisar along with Annexures R-1 to R-3. The State counsel further submits that the trial is going on.

However, the State counsel has not disputed the fact that while appearing in

the witness box Mukesh has not supported the case of prosecution while complainant had not witnessed the occurrence in question and that the petitioner is in custody for the last more than 02 years and 03 months.

5. I have considered the submissions made by counsel for the parties.

6. Admittedly, in the present case FIR was registered against unknown persons who committed the murder of Mukhtiar Singh and the entire case is based on circumstantial evidence. It appears that PW Mukesh who had lastly seen the deceased in company of the petitioner is declared as hostile witness while the complainant is not eye witness to the alleged occurrence. It will take considerable time for the trial to conclude as till date 12 witnesses are examined out of total 17 witnesses on behalf of the prosecution.

7. In light of above, no purpose is going to be served by detaining the petitioner in judicial custody for any longer period. Thus, without commenting on the merits of the case, 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/Chief Judicial Magistrate/Duty Magistrate concerned.

04.05.2023

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**(KARAMJIT SINGH)
JUDGE**

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No