

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

**Criminal Misc. No.M-50025 of 2022(O&M)
Date of Decision: January 12, 2023**

Satish Kumar

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE HARINDER SINGH SIDHU

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Present: - Mr.Abhishek Singla and
Ms.Tanya Sehgal, Advocates
for the petitioners.

Mr.V.G.Jauhar, Addl.AG, Punjab.

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HARINDER SINGH SIDHU, J.

The petitioner has filed this petition under Section 439 Cr.P.C for grant of regular bail in case FIR No.175 dated 02.10.2019 under Sections 302, 201 and 34 IPC, Police Station City Samana, District Patiala.

The FIR was lodged on the statement of one Anil Kumar an electrician and resident of Samana. He stated that they were three brothers; eldest one was Manohar Lal @ Babla, next to him was he himself and the younger one was Rajiv Kumar @ Dimple. All are married and living separately. Manohar lal @ Babla had died about four years back. Prior to his death, Manohar Lal @ Babla and Rajiv Kumar @ Dimple were working together and were running a workshop of repair of truck bodies at Patran

Road, Samana. They both were married to two real sisters. Before the death of Manohar Lal, Rajiv Kumar had gone abroad for some time. Due to this reason, Manohar Lal and Rajiv Kumar had separated their work after the return of Rajiv Kumar. Rajiv Kumar had started working independently regarding repairing of truck bodies on contract. The name of wife of Rajiv Kumar is Rekha Rani and they have two children; one daughter aged 15 years and son aged about 10 years. On 04.09.2019 Rajiv Kumar @ Dimple had gone to Patran on his Vespa Scooter No.PB-11N-0643. He returned to Samana at about 7-8 PM. He did not come back to his house, but went to the house of Darshan Singh resident of Officers Colony, Samana. At that time, he was accompanied by Satish Kumar (petitioner). Rajiv Kumar asked Darshan Singh who was his uncle on telephone that the matter with Ravi Kumar, etc. (nephew of Rajiv Kumar) pertaining to a plot, be concluded by getting it registered. Darshan Singh assured Rajiv Kumar that he would conclude the matter by getting it registered and sent him back. But Rajiv Kumar @ Dimple did not reach home. At about 12 midnight, Ravi Kumar (nephew of complainant) woke up the complainant and informed him that Rajiv Kumar had not returned home and his mobile phone was also switched off. At that time, Ravi was accompanied by Satish (petitioner) and one Billu son of Mohan Lal. Thereafter, the complainant along with them searched for Rajiv Kumar but did not find him anywhere. In the morning at about 8.00 AM, the complainant learnt that the police had brought the dead body of a male person from Bhakhra Canal to Civil Hospital, Samana. The complainant along with Ravi Kumar and Rekha Rani (wife of Rajiv Kumar)

reached there and identified the dead body to be of Rajiv Kumar @ Dimple. On that day, they had no suspicion against anybody regarding the death of Rajiv Kumar. On the statement of the complainant, Rekha Rani (wife of deceased Rajiv Kumar) and Ravi Kumar the Police conducted proceedings under Section 174 CrPC. After postmortem, the dead body was handed over to them and it was cremated the same day.

The complainant further stated that Satish Kumar has been coming to the house of his brother Rajiv Kumar very often even in the absence of Rajiv Kumar. Hence, they had suspicion over Satish Kumar. On 04.09.2019 when Rajiv Kumar had gone missing, Satish had accompanied him till the last time. The complainant further alleged that after the death of Satish Kumar and his *bhog*, they enquired at their own level about the reasons of death of Rajiv Kumar @ Dimple. They now had the firm belief that Rajiv Kumar @ Dimple has been murdered by Satish Kumar and Gurpreet Singh @ Gaggi after strangulating him by means of some article. The scooter of the complainant had also not been traced out so far. The complaint further mentioned that the role of Rekha Rani (wife of the deceased) in the murder be also enquired as the deceased used to suspect that she and Satish Kumar had illicit relations.

Ld. Counsel for the petitioner has argued that the petitioner has been falsely implicated in the case after about a month of the death of Rajiv Kumar on the basis of suspicion, without any basis. He contended that the petitioner had no motive to indulge in the alleged heinous crime of murder and the story of illicit relationship of the petitioner and the wife of the

deceased is result of concoction only. Referring to an application dated 04.07.2018 addressed to the Tehsildar (Annexure P-6), it is contended that there was a property dispute between the family of the deceased and Ravi Kumar (nephew of the deceased). He further contended that the complainant Anil Kumar while deposing before the Ld. Trial Court as PW3 has stated that he had never stated that his brother (deceased) had gone to the house of the petitioner. This witness also did not identify the petitioner in Court. He was declared hostile by the prosecution.

It was further submitted that the petitioner is in custody since 07.10.2019. There are 17 witnesses in the case. The prosecution is deliberately delaying the matter. He has placed on record two zimini orders dated 06.05.2022 and 07.09.2022, wherein, PW Ravi Kumar was ordered to be summoned throughailable warrants as he did not appear despite service.

Opposing the petition, Ld. State counsel has submitted that during investigation, it was found that the petitioner in connivance with co-accused Gurpreet Singh @ Gaggi committed the murder of Rajiv Kumar. Satish Kumar was arrested and interrogated. He disclosed that he had kept the Vespa Scooter of the deceased on the left side of footpath of Canal under the bushes. On his disclosure, the Scooter was recovered from the said place. It is further argued that the prosecution case is based on last-seen and circumstantial evidence. Though the complainant has turned hostile, but other witnesses including Ravi Kumar, who is nephew of the deceased are yet to be examined. If the petitioner is granted bail at this stage, he may influence the witnesses. The co-accused Gurpreet Singh was earlier

declared proclaimed offender and after his arrest, supplementary challan against him was filed only in May, 2022. It is further argued that some dispute before the revenue authorities regarding partition of some ancestral property between the deceased and the family of his brother, cannot be considered as a ground in favour of the petitioner, at this stage.

Having considered the above submissions, there appears to be no ground to grant bail to the petitioner at this stage.

Dismissed.

January 12, 2023

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**(HARINDER SINGH SIDHU)
JUDGE**

Whether Speaking / Reasoned	Yes
Whether Reportable	Yes / No