

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

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**CRM-M-53236-2022
Date of decision: 09.03.2023**

VISHAL SANDHU

....Petitioner

Versus

STATE OF HARYANA

...Respondent

CORAM: HON'BLE MR. JUSTICE VINOD S. BHARDWAJ

Present : Mr. Dinesh Maurya, Advocate
for the petitioner.

Mr. Vivek Chauhan, Addl. A.G. Haryana.

VINOD S. BHARDWAJ. J. (ORAL)

This is a second petition under Section 439 of the Code of Criminal Procedure, 1973 for grant of regular bail in case FIR No. 632 dated 12.08.2019 registered under Sections 302, 392/34 of the Indian Penal Code, 1860 at Police Station Civil Lines, Karnal.

2. Brief facts of the prosecution case are that the present case was registered on the statement of complainant Jiwa Nand son of Sadhu Ram, resident of villge Garhi Birbal, District Karnal. The complainant has stated that he is a labourer. He is having two sons and two daughters. The elder son of the complainant, namely Balinder Kumar, is married and his younger son namely Bal Kishan alias Rinku is unmarried. He further stated that Ankur is the wife of his son namely Balinder Kumar and she was pregnant. Due to this reason, Ankur was got admitted in Kalpana Chawla Government Medical College and

Hospital, Karnal. On 09.08.2019 Ankur daughter in law of the complainant gave birth to a female child. Then, both sons of the complainant namely Balinder Kumar and Bal Kishan alias Rinku had gone to Kalpana Chawla Government Medical College and Hospital, Karnal to see the newly born child. The complainant has further stated that Balinder Kumar was doing private job in a company at Chandigarh. The employer of Balinder Kumar had called him at Chandigarh due to some urgent work. Thereafter on 11.08.2019 at about 11.00 P.M Bal Kishan alias Rinku had gone from Kalpana Chawla Government Medical College and Hospital, Karnal to Railway Station, Karnal on motor cycle bearing registration no. HR05-AE-3593 to drop Balinder Kumar. But Bal Kishan alias Rinku did not return to home from Railway Station Karnal. Then, Ankur daughter in law of the complainant disclosed this fact to the complainant and her husband Balinder Kumar. Thereafter, the complainant and other family members have tried to trace out Bal Kishan alias Rinku. But he could not be traced. Thereafter, the complainant and his family members received an information that in the night of 11.08.2019, some unknown persons have committed the murder of a youth in Chaudhary Colony, Karnal and the dead body of that person was lying in the dead house of Kalpana Chawla Government Medical College and Hospital, Karnal. Thereafter, the complainant and other family members reached at Kalpana Chawla Government Medical College and Hospital, Karnal for the identification of the dead body of that youth and on seeing the dead body of that youth, it was found the dead body of Bal Kishan alias Rinku. Then, the complainant had enquired about the murder of his elder

son Bal Kishan alias Rinku. On this, the complainant came to know that some unknown person had committed the murder of his elder son Bal Kishan alias Rinku by inflicting injuries in the neck of Bal kishan alias Rinku with knife due to some enmity. The complainant further stated that about one week ago, some unknown person had made a mobile call on the mobile of his elder son Bal Kishan alias Rinku bearing SIMS no.7015917250 and 9992641824 from the mobile number 9466230748 in respect of some money transactions and that person had extended threatening to Bal Kishan alias Rinku. The complainant is having suspicion on that unknown person, who had made mobile call to Bal Kishan alias Rinku. It is requested that a legal action may kindly be taken against the accused persons. On the basis of the said statement, a formal FIR No.632 dated 1208.2019 under sections 302 of IPC was registered and the investigating agency swung into action.

3. The investigation was carried by the SI Dharampal. During investigation, proceedings under section 174 Cr.P.C were got conducted; spot was inspected; Scene of Crime team was called on the spot. Then, Scene of Crime Team reached and inspected the spot. The blood stained earth was lifted from the spot, which was put in a plastic container and was taken by the police in their possession vide recovery memo. During further investigation on 13.08.2019, post mortem on the dead body of the deceased Bal Kishan allas Rinku was got conducted and then, the dead body of the deceased Bal Kishan alias Rinku was handed over to his legal heirs. Thereafter, the Doctor sahab had handed over the pullanda paschat of the deceased, which were taken by the police in their possession vide recovery memo. During further

investigation on 14.08.2019, accused Vishal Sandhu son of Amarjit Singh son of late Rattan Singh, resident of Kheri Man Singh, District Karnal presently residing as tenant in Gali NO.8, Hansi Road, Karnal and Anjali alias Meenu wife of Vishal Sandhu were apprehended and arrested along with looted motor cycle of deceased Bal Kishan. Thereafter, L/ASI Jaswinder Kaur were called on the spot for conducting the interrogation of the accused Meenu. On interrogation, the accused Anjali alias Meenu has suffered her disclosure statement admitting the commission of this crime. In pursuance of her disclosure statement, she got recovered one knife which was used in the commission of this crime, her clothes, which she has worn at the time of committing the crime, mobile phone of the deceased Bal Kishan from her residential house, which she had taken on rent. All the recovered articles were converted in to sealed parcels and were taken by the police in their possession. Sketch of the knife was also prepared. Site plan of the place of recovery was also prepared. Thereafter, the accused Anjali alias Meenu has got demarcated the place of occurrence. Then, accused Vishal Sandhu had suffered his disclosure statement admitting the commission of this crime. The motor cycle which was robbed from the deceased Bal Kishan alias Rinku was also taken by the police in their possession vide recovery memo. Thereafter, both the accused persons have got recovered one Activa bearing registration no.HR-05-AL-8624, which was used in the commission of this crime. They have also got demarcated the place of occurrence. During further investigation, section 392 and 34 of IPC were added in this case. Further investigation of this case was handed over to SI Chandeshwar.

On 18.08.2019, accused Vishal Sandhu suffered his another disclosure statement and then, in pursuance of his disclosure statement, he got recovered one knife which was used in the commission of this crime, clothes which were worn by him at the time of committing the crime, purse containing documents belonging to the deceased Bal Kishan, near the wall of cremation ground. All the articles were converted into sealed parcel sealed with the seal of SR/2 and were taken by the police in their possession vide recovery memo. During further investigation 02.09.2019, the registered owner of the Aactiva bearing registration no. HR05-AL-8624 namely Radha wife of late Ishwar Singh, which was used in the commission of this crime, was joined in the investigation of this case. The R.C of the Aactiva was taken by the police in their possession vide recovery memo. On 04.09.2019 CDR of the mobile phone was collected and the SIM was found to be in the name of Arun Kumar son of Triloki, resident of village Sirsal, District Kaithal. On completion of the investigation, challan was submitted in the court against the accused persons on 07.11.2019.

4. Counsel for the petitioner contends that the petitioner is in custody in the present case since 14.08.2019 and that a total of 24 witnesses had been cited by the prosecution, only 07 witnesses had been examined so far and 02 witnesses have been given up and the remaining 15 witnesses thus need to be examined. He contends that the petitioner has already undergone an actual custody of three and half years and that the trial Court has not yet concluded. He further submits that the petitioner has been falsely implicated in the above said case and that as per the initial apprehension expressed by the complainant, his

son had received threatening call from mobile No. 94662-30748. The apprehension was thus expressed that his son has been killed in view of the threat so extended, however, during investigation, the aforesaid caller has been led off. He further submits that the petitioner has already undergone a prolonged incarceration and that his rights are gravely prejudiced on account of the delay in conclusion of the trial.

5. Learned State counsel however contends that recovery of the knife, vallet, documents and motorcycle had been effected at the disclosure of the petitioner and as such, his participation in the commission of offence is undisputed. He, however, could not dispute the fact that the petitioner has already undergone an actual custody of more than three and half years and that as many as 15 witnesses still remain to be examined in the present case.

6. I have heard learned counsel appearing on behalf of the respective parties and have gone through the record with their able assistance.

7. Taking into consideration the circumstances noticed above, the stage of trial, the period of actual custody undergone by the petitioner as also the right to speedy trial prescribed under Article 21 of the Constitution of India, I deem it appropriate to enlarge the petitioner on bail upon furnishing bail bonds/surety bonds to the satisfaction of the Trial Court.

8. Without commenting on the merits of the case, the instant petition is allowed and the petitioner is ordered to be released on bail on his furnishing the requisite bail bond/surety to the satisfaction of the Trial Court/Duty Magistrate concerned.

9. It is made clear that the petitioner shall not extend any threat and shall not influence any prosecution witnesses in any manner directly or indirectly.
10. The observations made hereinabove shall not be construed as an expression on the merits of the case and the trial Court shall decide the case on the basis of the material available.

The petition is allowed.

(VINOD S. BHARDWAJ)
JUDGE

MARCH 09, 2023

Vishal sharma

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