

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

**CRM No.M-57242 of 2022 (O&M)
Date of Decision: February 24, 2023**

Ashok

...Petitioner

VERSUS

State of Haryana

...Respondent

CORAM: HON'BLE MRS. JUSTICE ARCHANA PURI

Present: Mr.Amitabh Tewari, Mr.Satvik Bansal and
Ms.Dilmrig Nayani Advocates,
for the petitioner.

Ms.Ambika Luthra, Addl. Advocate General, Haryana
for the respondent-State.

ARCHANA PURI, J.

CRM-8087-2023

Present application has been filed for placing on record the
confessional statemente of the petitioner.

In view of the averments made in the application, same is
allowed and the aforesaid document is taken on record.

CRM-M-57242-2022

The petitioner has filed this third petition under Section 439
Cr.P.C. for seeking regular bail in case FIR No.132 dated 25.04.2019 under
Sections 302 and 34 IPC, Police Station City Bhondsi, District Gurugram.

Notice of motion was issued. Learned State counsel has made
appearance.

Heard on the bail petition.

The aforesaid case was registered at the instance of Nepal S/o Sewakpal. As per version of the prosecution, complainant was working in a private company in Udyog Kunj and lived there. His father was working as Ferry on the junk shop of Kailash. Puttan s/o Ramjani was also working as Ferry, along with father of the complainant. However, Puttan had died in a road accident on the night of 17/18.04.2019. Thereafter, father of the complainant had proceeded to his village. On return from the village on 24.04.2019, at about 11.00 p.m., Kailash, his brother Ashok (petitioner), Mohan Swaroop, Chanderpal and Sukhdev and driver, whose name, the complainant never knew, had come and asked father of the complainant, to accompany them, as police has called for enquiry, vis-a-vis, death of Puttan. Thereafter, father of the complainant had accompanied the aforesaid persons, who had gone to the office of Sukhdev. When father of the complainant had not returned till morning, then the complainant had gone to the office of Sukhdev, where the office was found closed. Upon knocking for a considerable time, the gate was not opened. From inside the gate, Kailash and Ashok had apprised that the keys of the gate are not available and asked the complainant to come later on. They did not give reply relating to the whereabouts of father of the complainant. When the police was called on phone by the complainant and later on, after opening of the gate, Kailash, Ashok, Mohan Swaroop and Chanderpal were present in the office and father of the complainant was lying dead inside. It is further stated by the complainant that there were injury marks on his father's body. The aforesaid persons and their accomplices, had killed his father by beating him with sticks.

Now, it is submitted by learned counsel for the petitioner that petitioner has been falsely implicated in the present case. He had no role to play in the occurrence in question. In fact, it is submitted that the petitioner is in custody since 29.04.2019. The challan was presented in the Court, but however, the trial is going on at snail's pace. It is further submitted that out of 32 cited witnesses, 11 witnesses have been examined till date. The complainant namely Nepal has already been examined as PW-2. However, he has given contradictory version, with regard to the manner of going to the spot of occurrence and the presence of other accused persons, together with the petitioner at the spot. It is submitted that there are contradictions, vis-a-vis, the material assertions of the prosecution version. Further, learned counsel for the petitioner submits that Sukhdev Singh, in whose office, the alleged occurrence had taken place, had since been granted benefit of regular bail, after about 1 years and 10 months detention. As such, a prayer has been made for grant of bail to the petitioner.

On the other hand, learned State counsel has refuted the claim of the petitioner for grant of bail. She submits that allegations against the accused are of serious nature. The complainant had specifically named the petitioner as accused and he was present besides the dead body, when the door of place of the occurrence was got opened. It is further submitted that even though, the statement of the complainant has been recorded, but however, perusal of his statement, as such, cannot be made at this stage, which shall hamper the prosecution version. As such, a prayer has been made for dismissal of the petition.

Status report as well as the custody certificate were called.

since 29.04.2019, till date, i.e. for about 3 years 10 months approximately. There are 32 cited witnesses, out of which, only 11 witnesses have been examined. Even though, throughout the arguments, much emphasis has been laid upon the fact of Sukhdev Singh, from whose office, the alleged dead body was recovered, to have been granted bail vide order dated 06.12.2022, which has been placed on record as Annexure P-9, but however, it is pertinent to mention that it was in pursuance of supplementary statement, that Sukhdev Singh was nominated as accused. Even, the complainant, while in the witness box, has not supported the prosecution version, vis-a-vis, role of Sukhdev Singh. In these circumstances, the fact, as such, of release of fellow accused Sukhdev Singh, is not of much help to the present petitioner.

However, the fact remains that the petitioner is in custody since 29.04.2019. Moreover, as evident from the custody certificate, he is not involved in any other case. Out of 32 cited witnesses, only 11 witnesses have been examined. The complainant has already been examined as PW-2. Even though, reference has been made to the testimony of the complainant, got recorded, during the course of trial, with regard to there being contradictions on the material particulars of the case, but however, at this stage, intentionally the same is not being appraised, lest it may hamper the case of either side.

In view of the aforesaid circumstances, the petitioner, as such, cannot be kept in incarceration for a long period of time, particularly, when the trial is proceeding, at a snail's pace. The speedy trial is a constitutional right provided to accused under Article 21 of the Constitution of India.

Considering all the facts and circumstances and period of

incarceration, at this stage, without any expression on merits of the case, this Court deem it appropriate to grant regular bail to the petitioner. Accordingly, the present petition is allowed and the petitioner is ordered to be released on bail subject to his furnishing personal/surety bonds to the satisfaction of the learned trial Court/Duty Magistrate concerned.

February 24, 2023	(ARCHANA PURI)
Vgulati	JUDGE
Whether speaking/reasoned	Yes
Whether reportable	No