

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CRM-M-1857-2022
Date of decision: 21.02.2024

Naga @ Nagender @ Sree Niwas @ ShriniwasPetitioner.

Versus

State of HaryanaRespondent.

CORAM:- HON'BLE MR. JUSTICE SANJIV BERRY

Present:- Mr. Baljeet Beniwal, Advocate,
for the petitioner.

Mr. Vishal Malik, DAG, Haryana.

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SANJIV BERRY, J. (ORAL)

1. Custody certificate dated 20.02.2024 filed by learned State counsel in Court today is taken on record.
2. Instant petition has been filed under Section 439 of the Code of Criminal Procedure for grant of regular bail to the petitioner in case FIR (Annexure P-1). Details of the FIR are as under: -

FIR No.	Dated	Sections	Police Station
110	10.05.2020	201, 302 and 34 IPC	Mundkati, District Palwal

3. Learned counsel representing the petitioner, *inter alia*, contends that the petitioner has been falsely implicated in the present case, although, he has no concern whatsoever with the alleged crime. He contends that the petitioner was not named in the FIR but was

nominated on the basis of disclosure statement made by the co-accused, namely Sanju @ Sanjay. The petitioner was arrested way back on 05.07.2020 and since then he is in custody. He further contends that even during the course of trial the material witnesses have been examined by the prosecution, including the complainant, who have levelled allegations only qua the co-accused, namely Sanju (*supra*) and have not named the petitioner to be the culprit or having been present at the spot at the time of alleged occurrence. As such, the petitioner prays for grant of regular bail.

4. *Per contra*, learned State counsel, while opposing the bail petition, admitted the fact that the petitioner was named in the disclosure statement made by the co-accused, namely Sanju (*supra*). He also admitted that during the course of trial, 04 material witnesses have since been examined including the complainant, who have levelled the allegations only qua co-accused, namely Sanju (*supra*) and have not alleged any criminal act on the part of the petitioner.

5. Considering the respective arguments and perusing the record, admittedly, the petitioner is in custody in the present case since 05.07.2020 after having been nominated on the basis of disclosure statement made by the co-accused, namely Sanju @ Sanjay. During the course of proceedings, learned counsel for the petitioner has referred to the statements of the prosecution witnesses, i.e. PW-1 (Laxman), PW-2 (Kishan), PW-3 (Mohan Lal-complainant) and PW-4 (Ami Chand) and

all of them have attributed the crime to the co-accused, namely Sanju (*supra*), of having strangled the deceased. None of them have levelled any allegation against the petitioner of having participated in the crime. As the conclusion of trial in the present case will take sufficient long time to ascertain the criminal liability, if any, of the petitioner, no purpose would be served in detaining the petitioner in custody any longer. Accordingly, without commenting on the merits of the case, instant petition is allowed and the petitioner is ordered to be released on bail on his furnishing surety bonds/bail bonds to the satisfaction of Trial Court/Duty Magistrate.

6. The petitioner shall give the undertaking that he will not leave the country without prior permission of the Court; will regularly appear before the trial Court on each and every date; in case of some exigency, he will seek prior permission of the concerned Court qua his exemption to appear on the date fixed and he will not tamper with evidence of prosecution in any manner.

7. However, anything observed hereinabove shall not be treated as an expression of opinion on merits of the case and is only meant for the purpose of decision of present petition.

8. Petition stands allowed.

21.02.2024
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(SANJIV BERRY)
JUDGE

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| i) | Whether speaking/reasoned? | Yes/No |
| ii) | Whether reportable? | Yes/No |