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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

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CRM-M-3345-2024
Date of decision : 21.02.2024

Deepak Petitioner
versus
State of Haryana Respondent

CORAM : HON'BLE MR. JUSTICE PANKAJ JAIN

Present: Ms. Aarti Sharma, Advocate
for the petitioner.

Mr. Ashok Kumar Sehrawat, DAG, Haryana.

PANKAJ JAIN, J. (Oral)

1. Present petition has been filed under Section 439 Cr.P.C. for grant of regular bail to the petitioner in case bearing FIR No.286 dated 22.07.2022, registered for the offences punishable under Sections 302, 34 and 201 of IPC, 1860 at Police Station Matlauda, District Panipat.
2. Status report by way of affidavit of Dharamvir Singh, HPS, Dy. Superintendent of Police, Head Quarters, Panipat has been filed on behalf of the respondent-State. The same is taken on record.
3. On 22.07.2022, FIR came into being on the information supplied by Jyoti wife of deceased Kuldeep claiming that her husband Kuldeep left the village on 21.07.2022 for his duty to Panipat and did not return back.
4. As per prosecution during the investigation, they suspected illicit relationship between one Sawan s/o Naresh and Jyoti-the complainant. On the basis of disclosure statement made by Sawan, the

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present petitioner was nominated. CCTV footage of Shaifali Chicken Corner for the period from 19:28 p.m. to 19:48 p.m. on 20.07.2022 was collected and as per the same, co-accused Sawan, deceased Kuldeep alongwith the petitioner can be seen buying chicken at 19:30 p.m. and returning back at 19:36 p.m. The role of the petitioner as per the status report reads as under:-

“That the role of the petitioner in crime is that the petitioner had friendship with accused Sawan who apprised that he has illicit relations co-accused Jyoti W/o deceased Kuldeep for about 7/8 months. Kuldeep came to know about a month ago about the illicit relations between co-accused Sawan and Jyoti. After this Kuldeep started harassing co-accused Jyoti more. Co-accused Jyoti wants to kill her husband Kuldeep and she asked the petitioner to help her in killing Kuldeep, so being a friend, the petitioner consented co-accused Sawan to help her in killing Kuldeep. After this, on 03/07/2022, the petitioner went to village Ahar and along with co-accused Sawan and Jyoti, made a plan to kill Kuldeep at co-accused Jyoti's house. As per the plan, on 20/07/2022, co-accused Sawan called the petitioner's mobile No.9817001976 from his mobile No.7082877589 and called to village Ahar to murder Kuldeep. The petitioner had gone to village Ahar with two sacks from the factory. In evening around 06:30/07:00 PM, they both found Kuldeep coming on a bike near Pond in village Ahar who was already drunk. Both of them together asked Kuldeep to drink alcohol, so Kuldeep came with them on his bike to consume alcohol. Kuldeep was driving the bike. Firstly they left Sawan at Shefall

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Chicken Corner to get chicken. The petitioner and Kuldeep went to liquor store to buy liquor. From the liquor store, the petitioner and Kuldeep took a bottle of English brand McDowell's. When they reached Shalfall Chicken Corner with a bottle of liquor, Sawan signaled them and sent them ahead of the shop and after sometime Sawan came to them with chicken. All three of them went to a vacant plot of village Chhichrana near the water tank on Madlauda Road to consume alcohol and all of them sat there and started consuming alcohol. The petitioner and co-accused Sawan made Kuldeep drink more alcohol as per plan and after Kuldeep became Intoxicated, co-accused Sawan caught hold of both hands of Kuldeep. The petitioner punched Kuldeep on his face and strangled him. The co-accused Sawan picked up a brick by chance and killed Kuldeep by hitting him on the head. After killing Kuldeep, the petitioner and co-accused Sawan together put Kuldeep's body in a plastic bag, put it on Kuldeep's black colored bike brand HF Deluxe No.HR-06AY-0446 and came to village Ahar and shown Kuldeep's body to Jyoti. After that Kuldeep's body was thrown into the old dirty water tank of village Ahar by them. After killing Kuldeep, the petitioner broke his mobile phone and SIM card and threw it away. His disclosure statement is annexed with Status Report as **Annexure R-4** for the kind perusal of this Hon'ble Court."

5. Counsel for the petitioner submits that whole of the story projected by the prosecution looks highly improbable as no prudent man can be expected to a company paramour of his wife especially when he knew of such illicit relationship. She further submits that apart

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from the disclosure made by co-accused Sawan, there is no incriminating evidence against the petitioner and the disclosure made by Sawan while in police custody cannot be relied upon in view of Sections 25 and 26 of the Evidence Act.

6. Petitioner is behind bars for more than 01 year, 06 months and 23 days. Whole of the case of the prosecution is based upon circumstantial evidence and there cannot be any apprehension that the petitioner shall tamper with any of the evidence.

7. *Per contra*, State counsel submits that in view of serious heinous crime involved, the petitioner does not deserve to be released on bail. However, he does not dispute that apart from the disclosure made by co-accused, there is no other incriminating evidence against the petitioner.

8. After hearing rival contentions of both the counsels, without commenting on the merits of the case, keeping in view the incarceration suffered by the petitioner and the nature of evidence against the petitioner, the present petition is allowed. Petitioner is ordered to be released on regular bail on his furnishing bail/surety bonds to the satisfaction of the Ld. Trial Court/Duty Magistrate, concerned.

9. Needless to say nothing recorded herein shall be construed to be an expression of an opinion on the merits of the case.

(PANKAJ JAIN)
JUDGE

21.02.2024

Dinesh

Whether speaking/reasoned :
Whether Reportable :

Yes
No