

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

228

CRM-M-6073 of 2024
Date of Decision:19.03.2024

Nikhil

.... Petitioner

Versus

State of Haryana

..... Respondent

CORAM: HON’BLE MR. JUSTICE PANKAJ JAIN

Present: Mr. Ram Bilas Gupta, Advocate,
for the petitioner.

Mr. A. K. Sehrawat, DAG, Haryana

PANKAN JAIN, J. (Oral)

1. The present petition has been filed under Section 439 of the Code of Criminal Procedure for the grant of regular bail to the petitioner in FIR No.621 dated 16.08.2022, registered under Section 302 of the IPC (Sections 307 and 323 IPC were added later on), at Police Station Sector 58, Faridabad.
2. FIR was registered on the statement made by Bir Singh who happens to be the father of the petitioner and grand-father of the deceased child.
3. As per the contents of the FIR, it has been alleged as under:-

*"To, Police Station Respected Incharge Sikri (Faridabad) Sir,
my request is that I am Bir Singh, son of Rakhi Singh, resident of*

village Misa, Chandhat district, Palwal, I have two sons, out of which my younger son Nikhil lives on his own with his wife and children. He was living in a house in Plot village Sikri, who used to work as a barber in Market village Sikri and was a drug addict, who used to fight with his wife and children usually. Today I got the information that my son Nikhil has Even tonight, he has beaten his children and has taken away his younger son Hitesh (age 10 years) with himself after beating him. After getting the information, I reached village Sikri with my family members near Shivram Rawat Hospital. I saw that a large crowd had gathered and when I reached near the crowd, I saw that my grandson Hitesh was tied with a rag rope around his neck and Hitesh was lying dead. My son Nikhil had strangled my grandson Hitesh with the rag ropes around the neck had murdered. You are requested to take legal action against Nikhil and get me justice. Applicant BIR SINGH 9671165406 Proceedings Police- Today I am with ASI Udham Singh 1619. Vinod Kumar 599 SI Nitesh Kumar 2394 I am at the present post that a person came to the present post and informed that a child is lying dead body in the bushes behind Dr. Shivram Rawat Clinic Sikri and a rope is tied around the neck, on the information of which my fellow employee SI with driver of the vehicle reached the bushes behind the government Dr. Shivram Rawat Clinic, village Sikri, where a child was found lying dead with a rope tied around his neck. The managing officer of the police station, Sai, informed him about coming to the spot. 58, ACP Sahya Mujesar CIA DLF FBD or Scene of Crime Team Dr. Manisha was informed about coming to the spot and meanwhile Bir Singh son of Ravi Singh resident of village Misa police station Chandhat district Palwal came to the spot and presented his above written application which was found forced. From the application it is found to be a crime under Section 302 IPC, a

complaint will be written and a case will be registered against the accused. Vinod Kumar is being sent to the police station of 599. After that, the case number should be informed through the form and the special report of the case should be sent to Bajaria Special Constable Officer Bala and Area Magistrate Saheb. I am busy with the investigation of my fellow SI employee. Aaj Shivram Rawat Behind Clinic Village Sikri SHRI RAM SI Police Post Sikri Police Station Sai. 58 FBD Date 16.08.2022 AT 11.00AM AZ Police Station Hasb Ahmad Tahrir Badst Ainda Constable Vinod Kumar 599/Fari on receipt in Police Station Haja, case no. 621 date 16.08.2022 U/S 302 IPC PS SEC 58 FBD has been registered and the special report of Sue Haja is being sent to the service of Badast Special Constable Amit 3128/Fari, Area Magistrate and concerned Officer Bala. A copy of the original complaint is being sent to the police on 1/0 occasion to the next police constable. Note- Due to SI Shriram's ID not being in CCTNS, this case was registered in CCTNS ID of ASI Ramesh 716 or in the presence of ASI Ramesh 716 I/O Si Shri Ram 2166/Fari I/C Police Post Sikri Phari Mob. No. 9582211655."

4. Learned counsel for the petitioner submits that the FIR was registered on the hearsay by Bir Singh. The petitioner is behind bars since 18.08.2022 and the material prosecution witnesses stand examined and all of them have turned hostile as none has supported the prosecution version. He further submits that there is no eye witness and the witnesses having resiled.

5. Learned State counsel does not refute the aforesaid position.

6. Keeping in view the incarceration suffered by the petitioner and the fact that all the material prosecution witnesses have turned hostile and have not supported the prosecution thus adversely affecting the chances of conviction of the petitioner. The present petition is allowed. The petitioner

shall be released on regular bail subject to furnishing bail bonds/surety to the satisfaction of the learned trial Court/Duty Magistrate concerned.

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 the present petition.

8. Pending applications, if any, also stand disposed of.

(PANKAN JAIN)
JUDGE

March 19, 2024
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Whether speaking	:	Yes
Whether reportable	:	No