

CRM-M-14864-2024

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2024:PHHC:044682

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

CRM-M-14864-2024
Date of decision : 03.04.2024

TILAK

....Petitioner

Versus

STATE OF HARYANA

....Respondent

CORAM: HON'BLE MR. JUSTICE PANKAJ JAIN

Present : Mr. B.K. Majoka, Advocate for the petitioner.

Mr. A.K. Sehrawat, DAG, Haryana.

PANKAJ JAIN, J. (ORAL)

This petition has been filed under Section 439 Cr.P.C. for grant of regular bail to the petitioner in case F.I.R. No.16 dated 15.01.2021 registered under Sections 302/201/34/120-B IPC at Police Station Hodal, District Palwal.

2. Custody Certificate of the petitioner has been filed today in Court. The same is taken on record.

3. Reliance is being placed upon order dated 06.03.2024 passed in CRM-M No.50993 of 2023 whereby co-accused Harkesh has been granted bail observing as under:

“1 This petition has been filed under Section 439 Cr.P.C. for grant of regular bail in case F.I.R. No.16 dated 15.01.2021 registered under Sections 302/201/34/120-B IPC at Police Station Hodal, District Palwal and final report under Section 173 Cr.P.C./challan dated 06.04.2021 filed under Section 148/149/302/201/120-B IPC.

2 FIR was registered on the information given by Sanjeev Kumar S/o Gurdayal brother of the deceased who alleged as under :-

"To The Police Station Incharge Sir, Police Station Hodal. Subject: application for registering the case and take legal action against Satbir s/o Radhe 2. Dinesh s/o Satish 3. Umesh alias Manga s/o Horam 4. Rahul s/o Horam 5. Boney s/o Rajbir 6. Mukesh s/o Gangaram 7. Harkesh s/o Girraj 8. Satbir s/o Gangaram 9. Tilak s/o Subash, Residents of Garhia Mohalla Hodal, Tehsil Hodal, District Palwal. Sir, it is requested that I Sanjeev Kumar son of Gurdayal, Caste Jatav, R/o Garhia Mohalla, Hodal, District Palwal. We have three brothers and three sisters, in which two sisters are elder and one sister and two brothers are younger. We already have a dispute with the family of Satbir s/o Radhe, Dinesh s/o Satish, who lives in our neighborhood, in this regard a case is already registered against them in police station, Hodal and we have also filed two criminal complaints against them in Hodal court. These people have grudge against us for this reason and they extended life threat to me and my family. My brother Vikram sets up a biryani shop near our house. Yesterday on 14.01.2021 my brother Vikram and Vikas were present at our house, then our neighbours namely Umesh alias Moga, Rahul, Bonny, Rajbir, Dinesh, Mukesh, Harkesh, Satbir S/o Gangaram and Tilak R/o Garhia Mohalla Hodel at about 8.00/8.30 p.m. on the conspiracy of Satbir s/o Radhe call my brother Vikram aged about 32 years from our house and took him with them. My brother Vikas had seen Vikram is going with these people. When Vikram did not return for a long time, we looked for him a lot but Vikram could not be found. Today on 15.01.2021 at around 8.00 am we came to know that the body of my brother Vikram is lying in

the pond of the cremation ground, Hodal. As soon as we got this information, I along with Suraj s/o kaniram and my brother Vikas and lot of people of locality reached the cremation ground, where police was already there. We went there and saw that in the cremation ghat blood-stained bricks and broken pieces of teeth and jaw of vikram and blood lying there and we were follow the signs of dragging the body from there and when we went towards Pond, we found there the body of Vikram was floating in the water of Pond and with the help of the police fished out the body of Vikram from the pond and we noticed there were several injury marks on his face and head and his face was blood stained. The police after taking possession of the body of my brother Vikram had shifted it to the General Hospital, Palwal for post mortem examination. My brother Vikram was murdered by Satbir s/o Radhe with the conspiracy along with the above persons and with an intention to destroy the evidence dead body of Vikram was thrown in Pond after being murdered. Satbir is having criminal proclivity and political influential person. We still have danger to our lives and property from these people. Therefore, it is requested that strict legal action should be taken against the culprits by registering a case against them and protect our lives and property. SD applicant Sanjeev Kumar son of Shri Gurdayal, Caste Jatav, resident of Garhia Mohalla Hodal, District Palwal."

3 Custody certificate has been filed. The same is taken on record.

4 Learned counsel for the petitioner submits that apart from the bald allegations levelled in the FIR there is no incriminating evidence against the petitioner. The only evidence being relied upon by the prosecution is the disclosures made by the

co-accused while in police custody. Petitioner is behind bars for more than 3 years, 1 month & 20 days. 12 out of 18 witnesses already stand examined. He thus submits that all the material witnesses having been examined there can not be any apprehension that the petitioner shall tamper with the evidence.

5 Learned State counsel as well as learned counsel for the complainant however submit that the blood stains were found on the clothes of the petitioner and the blood as per the report received from the Forensic Lab has been found to be 'human'.

6 Learned counsel for the petitioner, however, submits that the same has been opined to be inconclusive so far as group is concerned and thus the said evidence cannot be relied upto to drive home guilt of the petitioner.

7 Without commenting on the merits of the case, keeping in view the incarceration suffered by the petitioner, nature of evidence against him and the fact that the material witnesses already stand examined during the course of trial, the present petition is allowed. The petitioner is ordered to be released on bail on his furnishing bail/surety bonds to the satisfaction of the Ld. Trial Court/Duty Magistrate, concerned.

8 Needless to say that anything observed herein shall not be construed to be an opinion on the merits of the case.”

4. Counsel for the petitioner further submits that the petitioner is behind bars for more than 3 years, 2 months and 18 days. Petitioner has clean antecedents and apart from his own disclosure that too while in police custody, no incriminating evidence is available against him. Investigation already stands concluded and Challan stands presented. Thus, there can't be any apprehension that the petitioner shall tamper with the evidence.

5. State Counsel is not in position to dispute the factual assertions made by counsel for the petitioner based on record.

6. I have heard counsel for the parties and have gone through records of the case.
7. Without commenting on the merits of the case, keeping in view the incarceration already suffered by the petitioner and the fact that the investigation already stands concluded and Challan stands presented, granting parity viz-a-viz Harkesh, the present petition is allowed. The petitioner is ordered to be released on bail on his furnishing bail bonds/surety bonds to the satisfaction of the Trial Court/Duty Magistrate concerned.
8. Needless to say that anything observed hereinabove shall not be construed to be an expression of opinion on the merits of the case.

April 03, 2024		(Pankaj Jain)
Dpr		Judge
Whether speaking/reasoned	:	Yes/No
Whether reportable	:	Yes/No