

215 IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CRM-M-15385-2024
Date of decision: 15th July, 2024

Rajbir son of Mahender

...Petitioner(s)

Versus

State of Haryana

...Respondent(s)

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present: Mr. Aditya Sanghi, Advocate for the petitioner.
Mr. Neeraj Poswal, AAG, Haryana.

MANISHA BATRA, J (ORAL):-

The present petition has been filed under Section 439 of Cr.P.C.
seeking regular bail in the FIR mentioned below:-

FIR No.	Date	Police Station	Sections
79	27.02.2022	Dharuhera, District Rewari, Haryana	302, 364, 396, 346, 387, 201 read with Section 34 of IPC, 1860 and Section 25 of Arms Act, 1959

2. Brief facts of the case relevant for the purpose of disposal of this petition are that the aforementioned FIR was registered on the basis of a written complaint submitted by the complainant Lalit Kumar alleging therein that his elder brother Aditya Kumar aged about 42-43 years used to ply a vehicle from Dharuhera to Gurugram from the last many years. On



26.02.2022, he had come to Dharuhera taxi stand at about 7:00 AM with vehicle Eeco van bearing registration No. HR-26-3803. He had taken some passengers from Dharuhera stand and gone to Gurugram and thereafter came back at Gurugram taxi stand and at that time, he had a telephonic conversation with his family members and informed them that he was going with some passengers to village Tapukada. He further alleged that on the previous evening, the children of his brother had called him and he had told them that he was stuck somewhere. Thereafter, his mobile phone was found switched off. He alleged that in the morning of 27.02.2022, an information was received by the registered owner of the aforementioned Eeco van vehicle Dayaram that the said vehicle was lying abandoned and had been taken to police post Khor. Feeling suspicious that something had happened with his brother, he prayed for taking action. Initially a case under Section 346 of IPC was registered. Investigation proceedings were initiated. On 28.02.2022, the dead body of Aditya Kumar was found lying in the forest area of village Kehrani. Offence under Section 302 of IPC was added subsequently. Inquest proceedings and post mortem examination of dead body was conducted and he was found to be murdered. The call detail record of mobile phone of the victim was obtained and it was found that one SMS was received at his mobile number from a particular cell number 6375950269, which was in the name of Babu Ram resident of Alwar.

3. As per the further allegations, the said Babu Ram had been joined into investigation who disclosed that some unknown person had



dialed the cell number 9518842811 through his mobile phone and that the said person had visited the house of the present petitioner which is situated near his shop and further that he had received a message at about 09:59 PM from that mobile phone number and had given screenshot of the said message along with his certificate under Section 65-B of Indian Evidence Act, 1872 to the police. On the basis of the information so given by Babu Ram, the present petitioner was joined into investigation. He was interrogated and suffered disclosure statement that he along with co-accused had killed the victim and after snatching money kept in his pocket and had thrown his dead body as well as his mobile phone in the forest of village Kehrani. The stone with which the petitioner had hit the victim, was got recovered by him from the forest area of village Kehrani whereas the co-accused Sandeep got recovered the knife used by him for committing the murder of the victim from the same area. Offences under Sections 387, 396 and 201 read with Section 34 of IPC were added during the course of investigation. After completion of necessary investigation and usual formalities, challan was presented in the Court and presently, the petitioner along with the co-accused is facing trial. He had moved an application for grant of regular bail before the Court of learned Additional Sessions Judge, Rewari, which has been dismissed vide order date 28.02.2024.

4. The present petition has been filed by the petitioner on the grounds and it is argued by his counsel that he has been falsely implicated in this case. On the basis of some information alleged to be given by PW-5



Babu Ram who has not supported the case of the prosecution. He was not named in the FIR. There is no eye-witness to the murder of the victim. He is in custody since 02.03.2022. The blood stained stone has been planted upon him and does not connect him with the case. From the statements of other material witnesses also, no incriminating evidence has been extracted against the petitioner. No useful purpose would be served by keeping him in custody anymore. Therefore, it is argued that he deserves to be extended benefit of bail.

5. Status report has been filed by the respondent-State. It is submitted therein and learned State counsel has argued that after the victim had gone missing and his dead body was found, the call details of his mobile phone were obtained and it was found that on the fateful day at 9:59 PM, an SMS was received at his mobile phone from the mobile phone of PW-5 Babu who was joined into investigation and had disclosed that the victim had called from his phone number by saying that his own phone had been lost and that he had come to the house of the petitioner as a cab driver and three persons had alighted from the said vehicle. It is argued that the petitioner in his own disclosure statement as well as the co-accused have disclosed about the involvement of the petitioner in the subject crime. The witnesses are yet to be examined though six of them have turned hostile. There are chances of petitioner's absconding if extended benefit of bail. The allegations against him are grave in nature. The recovery of a blood stained stone has been effected at his instance. Therefore, it is argued that the



petition does not deserve to be allowed.

6. I have heard learned counsel for the petitioner as well as learned State counsel at considerable length and have gone through the record carefully.

7. As per the allegations, the petitioner in furtherance of his common intention with the co-accused had committed the murder of the victim after abducting him and after robbing him of his money. The petitioner has placed on record copies of the statements of PW-1 Sandeep, a taxi driver, PW-2 Lalit Kumar, brother of the deceased, PW-4 Ganga Ram, taxi driver and PW-5 Babu Ram whose phone was allegedly used by the victim. However neither of these witnesses is shown to have supported the prosecution version with regard to involvement of the present petitioner in the offence of murder of the victim or as the person who had hired the taxi of the victim on the fateful day. The case is based on circumstantial evidence. No doubt a blood stained stone is alleged to have been recovered at the instance of petitioner. However, there is nothing on record to suggest that the stains so found were containing the same blood group as that of the victim though the FSL report has come on record. The petitioner is in custody since 02.03.2022. The trial is likely to take time. Taking into consideration the nature of the evidence that has come on record, the period of incarceration of the petitioner and the attendant facts and circumstances of the case but without meaning to make any comment on the merits thereof, I am of the considered opinion that the petitioner deserves to be extended

benefit of bail at this stage. Hence, the petition is allowed and the petitioner is ordered to be released on bail subject to his furnishing personal/surety bonds with two sureties in the like amount each to the satisfaction of the Chief Judicial Magistrate/ Duty Magistrate concerned.

8. Since the main petition has been allowed, pending application if any is rendered infructuous.

[MANISHA BATRA]
JUDGE

15th July, 2024
Parveen Sharma

1. Whether speaking/ reasoned

:

Yes / No
2. Whether reportable

:

Yes / No