

2024:PHHC:061602

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

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CRM-M-21309-2023 (O&M)
Date of decision : 03.05.2024

Sahil ... Petitioner(s)

Versus

State of Haryana ...Respondent(s)

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Mr. Salinder Kumar Saini, Advocate for the petitioner.

Mr. Saurabh Girdhar, AAG Haryana for the respondent.

ALKA SARIN, J. (ORAL)

1. This is a third petition under Section 439 of the Code of Criminal Procedure, 1973 for grant of regular bail to the petitioner in FIR No.29 dated 21.01.2020 under Section 302 of the Indian Penal Code, 1860 and Section 25 of Arms Act, 1959, registered at Police Station Pataudi, Gurugram, Haryana.
2. The brief facts relevant to the present case are that the complainant - Mahesh - got an FIR registered on 21.01.2020 stating therein that his son Gaurav was missing since 10.00 am on 20.01.2020 and he had taken his motorcycle bearing registration No.HR-76E-4501 and that on 21.01.2020 at 4.30 pm some friends of his son Gaurav namely Rakesh, Dipanshu and Chetan met him and he enquired about Gaurav from them and told them to find out his whereabouts. After some time, three boys told him that Gaurav was lying near the wall of new Ananj Mandi, Jatauli. It is further the allegation that he along with one Shripal went to Anaj Mandi and saw that his son Gaurav was lying dead and was covered in lots of blood and

had injury marks on his stomach and neck. It is further alleged that his son Gaurav was last seen at 5.30 pm on 20.01.2020 with Sahil and that he had suspicion that Sahil had murdered his son. On the basis of the said allegations, the present petitioner was taken into custody.

3. Learned counsel for the petitioner has contended that even in his statement before the Court it has simply been stated that on personal inquiry the complainant had found out that his son was last seen at 5.30 pm with Sahil, however, no name of the person who had seen his son with Sahil has been disclosed even in his statement. The petitioner has already been in custody for a period of 04 years 03 months and 06 days and that there is no other case pending against him. Learned counsel has further contended that out of 30 witnesses, 13 are yet to be examined.

4. *Per contra*, learned counsel for the State has filed the custody certificate and as per the custody certificate the petitioner has been in custody for a period of 04 years 03 months and 06 days and there is no other case pending against him. Learned State counsel would contend that the motorcycle on which the deceased had left his house was recovered from the spot. It is further the contention that out of 30 cited prosecution witnesses, 13 are yet to be examined.

5. Heard.

6. In the present case, on the previous date i.e. 16.04.2024, a progress report was sought from the Trial Court. Status report has been received. As per the status report, the concerned Court has stated that the Court has action plan cases as well as the other time bound cases and hence the delay in examining the witnesses.

7. In the present matter, the entire case is based on the last seen theory and rather in the statement of father of the deceased it has not come on the record as to who had lastly seen Sahil with the deceased. As per the custody certificate, the petitioner has been in custody for a period of 04 years 03 months and 06 days and there is no other case pending against him. Out of 30 prosecution witnesses, 13 are yet to be examined. The trial is likely to take some time to conclude and no useful purpose would be served by keeping the petitioner behind the bars any further.

8. In view of the above and without commenting upon the merits of the case, this Court deems it to be a fit case to grant the concession of regular bail to the petitioner. The petitioner is directed to be released on bail subject to his furnishing bail bonds with heavy surety to the satisfaction of the Trial Court/Additional Sessions Judge (Duty) concerned.

9. However, the Prosecution will always be at liberty to apply for cancellation of bail in case the petitioner is found to be misusing the concession of bail in any manner.

10. It is also made clear that any observation made herein shall not be treated as an expression of opinion on the merits of the case.

11. Disposed off. Pending applications, if any, also stand disposed off.

03.05.2024
Ankur

(ALKA SARIN)
JUDGE

NOTE: Whether speaking/non-speaking: Speaking
Whether reportable: YES/NO