

2024:PHHC:165005



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

322/2

CRM-44465-2024 in/and
CRM-M No.29382 of 2024
Date of Decision: 10.12.2024

Shivam Kumar @ Sonu ... Petitioner

Versus

State of Punjab ... Respondent

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present: Mr. Davinder Singh Saini, Advocate,
for the applicant-petitioner.

Mr. Amandeep Singh Samra, AAG, Punjab,
for the respondent-State.

MANISHA BATRA, J. (Oral)

CRM-44465-2024

The application is allowed as prayed for and Annexures P-8
to P-14 are taken on record.

Main Case

1. The present petition has been filed by the petitioner seeking
regular bail in the FIR mentioned below:-

FIR No.	Dated	Police Station	Sections
197	08.09.2023	City Rupnagar, District Rupnagar	302 and 34 of IPC (201 of IPC added later on)

2. Brief facts relevant for the purpose of disposal of this

2024:PHHC:165005



petition are that the aforementioned FIR had been registered on the basis of statement recorded by the complainant Daksh Saini alleging therein that his father Sh. Dwarka Dass @ Davinder who was working at DCM Cloth House had gone to his work place on 07.09.2023 but did not return home in the night. His mobile phone was also found to be switched off. His family had started making search for his father and found his dead body to be lying in a pool of blood at Gaushala Road, Rupnagar in the morning of 08.09.2023. There were marks of several injuries on the dead body and his motorbike, mobile phone and wallet were also missing. After registration of FIR, investigation proceedings were initiated. Postmortem examination of dead body and inquest proceedings were conducted. On the same day, Harmail Chand, brother of the victim recorded a statement that on the last evening, he had seen the accused Sunil Kumr while going as a pillion rider on the motorbike of his brother along with the latter at Railo Road and raised suspicion that his brother had been killed by Sunil Kumar.

3. As per the allegations, on the basis of this statement, the accused Sunil Kumar was nominated as accused and was arrested on 11.09.2023. On interrogation, he suffered a disclosure statement admitting his involvement in the murder of the victim and also disclosed the names of his son Shivam Kumar @ Sonu i.e. the petitioner and nephew “NK” (name withheld) (hereinafter to be mentioned as child in conflict with law i.e. “CCL”) who were involved with him in the murder. The petitioner was accordingly nominated as accused. He was arrested and suffered a disclosure

2024:PHHC:165005



statement admitting the involvement of his father, CCL and of himself in the murder of the victim. In pursuance of his disclosure statement, he got recovered Samsung Phone, PAN Card, Debit Card and Voter Card etc. belonging to the victim. Investigation has since been completed and the petitioner along with the co-accused is facing trial for commission of the aforementioned offences.

4. It is argued by learned counsel for the petitioner that he has been falsely implicated in this case. He was not named in the FIR and has been nominated as such on the basis of disclosure statement of the co-accused Sunil Kumar which cannot be considered to be admissible in evidence. He is in custody since 12.09.2023. A false recovery has been planted upon him. There is no direct evidence to the murder of the victim. No motive has been attributed to him for committing the offences alleged against him. There is nothing on record to connect him with the offence of murder. Trial is likely to take time. No useful purpose would be served by keeping him in custody any more. Therefore, it is urged that he deserves to be released on bail.

5. Per contra, learned Assistant Advocate General, Punjab has argued in terms of the status report that there are serious and specific allegations against the petitioner who along with his father i.e. co-accused Sunil Kumar and the CCL "NK" had caused multiple injuries to the victim thereby causing his homicidal death. The victim was lastly seen with the co-accused Sunil Kumar while riding on his own motorbike. The evidence

2024:PHHC:165005



collected during the course of investigation has also showed that the petitioner along with CCL “NK” was following bike of the victim at the same time, on a separate motorbike. The CCTV footage of the vicinity has been collected which also confirms this fact. The trial is going on at a good pace since the material witness namely, Harmail Chand and the complainant already stand examined and they have supported the prosecution version. There are chances of petitioner’s absconding if extended benefit of bail. Therefore, it is urged that the petition does not deserve to be allowed.

6. I have heard learned counsel for the parties at considerable length and have gone through the record.

7. The petitioner in conspiracy with the co-accused Sunil Kumar who is none other than his own father and his cousin brother CCL “NK” is alleged to have committed the murder of the victim by inflicting several injuries to him with sharp edged weapons. The evidence collected during the course of investigation reveals that the petitioner along with the CCL “NK” had been following the bike of the victim shortly before the occurrence. The co-accused Sunil Kumar was lastly seen with the victim while riding on the same bike. The allegations against the petitioner are serious in nature. Simply because he was not named in the FIR, it cannot be presumed that he was not involved in the occurrence. The material witnesses have supported the prosecution case. Keeping in view the nature of the allegations as levelled against the petitioner, the quantum of sentence which the conviction may entail and the attendant facts and circumstances but without meaning to

2024:PHHC:165005



make any comment on the merits of the case, I am of the considered opinion
that the petition does not deserve to be allowed. Accordingly, the same is
dismissed.

10.12.2024
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(MANISHA BATRA)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No