



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-31979-2024
Date of Decision : 19.11.2024

Bijender Petitioner

Versus

State of Haryana Respondent

CORAM : HON'BLE MR. JUSTICE VIKRAM AGGARWAL

Present : Mr. Balraj Gujjar, Advocate
for the petitioner.

Mr. Rajiv Sidhu, DAG, Haryana
for the respondent-State.

VIKRAM AGGARWAL, J (ORAL)

1. The present petition has been preferred under Section 439 of the Code of Criminal Procedure (for short 'Cr.P.C.') for the grant of regular bail to the petitioner in case FIR No.744 dated 05.12.2021, registered under Sections 302, 120-B, 34, 364, 201 IPC at Police Station City Palwal, District Palwal (Haryana).
2. The dead body of one Gopal was recovered on the morning of 05.12.2021 from under the Alhapur flyover in Palwal. On a complaint submitted by one Om Parkash, FIR was registered wherein the said Om Parkash named Sumeri, Mahaveer and Dinesh alongwith some unknown persons whom the deceased had stated, had waylaid him and threatened him.



It was stated by the complainant that he had every doubt that the said persons had conspired and murdered Gopal who was the sister's husband of the complainant Om Parkash. During investigation, as per the case of the State, it emerged that the wife of the deceased namely Preeti was having an extra marital affair with the petitioner Bijender and that she in conspiracy with the the petitioner Bijender, co-accused Ashok and Ravi as also one Bobby committed the murder of Gopal. The present petitioner was arrested on 05.01.2022. Co-accused Bijender and Ashok were also arrested and recently co-accused Bobby is also stated to have been arrested.

Learned counsel for the petitioner submits that there is practically no evidence against the petitioner and even the material witnesses have not deposed anything against the petitioner. He further submits that the entire case is based upon circumstantial evidence; co-accused Ashok and Ravi have been released on regular bail vide orders dated 08.04.2024 and 28.05.2024 (Annexures P-2 and P-3) passed in CRM-M-1738 of 2024 and CRM-M-22807 of 2024 respectively and that the case of the petitioner is at par with the said co-accused. He further submits that co-accused Bobby was arrested recently and is in custody. He submits that since co-accused Bobby was arrested subsequently, a *de novo* trial shall be started. He submits that the petitioner is in custody for the last almost 03 years and since the trial is not likely to conclude in the near future, no useful purpose would be served by keeping him in custody any longer.

Custody certificate filed in the Court today is taken on record as per which the petitioner has undergone total incarceration of 02 years 10 months and 13 days.



Learned counsel representing the respondent-State of Haryana has opposed the bail application stating that the petitioner had an extra marital affair with Preeti, wife of the deceased and that the motive was to take the insurance amount of deceased Gopal. Learned counsel submits that if the petitioner is released on bail, he may try to influence the remaining witnesses and may also abscond. He further submits that the LIC policy of the deceased has been recovered from the petitioner which also shows that he was actively involved in the commission of offence. Learned counsel further submits that there were number of calls of the petitioner with Preeti and other co-accused.

Admittedly, the case is based upon circumstantial evidence. As to whether the petitioner was a part of the conspiracy or not shall be determined when the trial concludes. Co-accused Ashok and Ravi have already been granted regular bail. The petitioner is also in custody for the last almost 03 years. After the arrest of co-accused Bobby, a *de novo* trial will start. No criminal antecedents of the petitioner have been brought on record. In the considered opinion of this Court, no useful purpose would be served by keeping the petitioner in custody any further and the apprehension expressed by learned State counsel that if the petitioner is released on bail, he may try to influence the witnesses or may abscond appears to be unfounded.

Keeping in view the facts as have been discussed as also the fact that the co-accused have been released on bail and without expressing any opinion on the merits of the case, the present petition is allowed. The petitioner is ordered to be released on regular bail on his furnishing



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bail/surety bonds to the satisfaction of the trial Court/Chief Judicial
Magistrate/Duty Magistrate concerned.

(VIKRAM AGGARWAL)
JUDGE

19.11.2024
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Whether speaking/reasoned	Yes/No
Whether Reportable	Yes/No