

2024.PHHC.114979



215.

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-33619-2024
Date of decision: 03.09.2024

Iliyas Petitioner

Versus

State of Haryana Respondent

CORAM: HON'BLE MR. JUSTICE GURBIR SINGH

Present: Mr. Sahil Choudhary, Advocate, for the petitioner.
Mr. Rajiv Sidhu, DAG, Haryana.

GURBIR SINGH, J.

1. This petition has been filed under Section 439 of Cr.P.C. for grant of regular bail to the petitioner in case FIR No.339, dated 01.05.2022, registered under Section 302 IPC at Police Station Samalkha, District Panipat.
2. The allegation against the petitioner is that he committed the murder of his own brother.
 - 2.1 The aforesaid FIR was registered with the allegation that on 01.05.2022, police received information that one person had been given injuries with knife in the fields. Police went to General Hospital, Panipat, where the complainant Iliyas (petitioner herein) gave a complaint to the police stating therein that he was resident of Shahpur Road, Saharanpur (UP). He had four brothers. He had taken land on lease from Jai Kishan of

Village Dhindar. He stated that about three years earlier, he had been divorced from his wife and thereafter, he had performed court marriage with one Farida. But the family members of his wife Farida got registered a case against the petitioner on the ground that Farida was minor. The petitioner remained in jail for some time and thereafter, he was released on bail. The petitioner stated that his wife and his parents-in-law used to demand money from him after his release from the jail. Even his wife had illicit relations with her brother-in-law (*jija*). He had further stated that his brother Aleek had come to him in Village Dhindar. They were taking care of the crop. In the night, both of them went to sleep on their separate cots. At about 10:30 PM, the complainant heard some noise in the fields and saw that his brother Aleek had been inflicted various injuries with knife. He took his brother to Government Hospital, Panipat, where his brother was declared dead. On the basis of said complaint, police registered FIR, however, during investigation, it was revealed that the complainant-Ilyas (petitioner herein) himself committed the murder of his brother in order to falsely implicate his in-laws.

2.2 Petitioner was arrested on 11.05.2022. Jai Kishan @ Sonu from whom the petitioner took the land on lease, made statement that on 11.05.2022, when he was at his tubewell, petitioner-Ilyas came to him and confessed his guilt that he had killed his own brother Aleek. Petitioner requested Jai Kishan to do something to save him. Brother of the petitioner, namely, Kamil, also made an application dated 10.05.2022 before the police that he was suspecting that Aleek was murdered by the petitioner.

3. Learned counsel for the petitioner has argued that the petitioner has been falsely implicated in the present case. There is no eyewitness to the alleged occurrence. Petitioner was the complainant of present case and it is the petitioner, who called the police. He was not named in the FIR. Petitioner was implicated on the statement of Jai Kishan that petitioner made extra judicial confession before him.

3.1 Learned counsel for the petitioner has further argued that the material witnesses i.e. the brother of the petitioner and Jai Kishan alias Sonu have turned hostile. Petitioner is in custody since 11.05.2022. There is no evidence against the petitioner. Conclusion of trial will take long time. No useful purpose would be served by further incarceration of the petitioner.

4. Learned State counsel has opposed the bail to the petitioner considering the allegation of commission of heinous offence of murder. However, he has not disputed the factum that Kamil (PW1), brother of the deceased, and Jai Kishan (PW8) have turned hostile.

5. I have heard the submissions of learned counsel for the petitioner, learned State counsel and have gone through the file.

6. Considering the fact that the petitioner is in custody since 11.05.2022; material witnesses PW1 and PW8 have turned hostile and have not supported the version of prosecution and other witnesses are official witnesses; culpability of petitioner would be determined during trial; completion of trial will take some time, this Court deems it appropriate to release the petitioner on regular bail.

7. Accordingly, without commenting on the merits of the case, the present petition is allowed and the petitioner is ordered to be released on regular bail subject to his furnishing bail bonds/surety bonds to the satisfaction of concerned learned trial Court/Chief Judicial Magistrate/Duty Magistrate, with the further condition that he shall get his mobile number registered in the trial Court for receiving messages on CIS system and shall not change his mobile number during the pendency of the case. He shall also furnish his residential address to the trial Court as well as to the concerned police station and shall not change his residence without intimation to the concerned court. The court concerned may impose any other condition as it deems fit. In case of default, the trial Court is free to cancel the bail granted to the petitioner.

8. However, it is made clear that anything stated hereinabove shall not be construed as an expression of opinion on the merits of the case and the trial Court shall decide the case on the basis of material available before it.

(GURBIR SINGH)
JUDGE

September 03, 2024
sanjeev

Whether speaking/reasoned: Yes/No
Whether reportable: Yes/No