



CRM-M-38390-2024

-1-

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH
216

CRM-M-38390-2024
Date of decision: 20th September, 2024

Sandeep Kumar and another
Versus
State of Haryana
...Petitioners
...Respondent

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

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

MANISHA BATRA, J (ORAL):-

The present petition has been filed by the petitioners 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 had 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 Khorī. Feeling suspicious that something had happened with his brother, he prayed for taking action.

3. As alleged, 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.

4. As per 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. In view of the information so given by Babu Ram, accused Rajbir was joined into investigation. He suffered disclosure statement to the effect that he along with the present petitioner and other co-accused had killed the victim and after snatching money kept in his pocket, had thrown the dead body of victim in the forest of village Kehrani. The petitioner No.1- Sandeep and co-accused Dharmender were also arrested on 02.03.2022. The petitioner on interrogation suffered disclosure statement to the effect that he had given punches on the face of the victim. In pursuance of his disclosure statement, he got recovered an amount of Rs. 500/- out of snatched amount and knife.

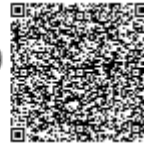
5. As per the allegations, the petitioner No.2- Sanjay @ Khiladi was arrested on 03.03.2022. He too suffered disclosure statement admitting his involvement in the murder of the victim and got recovered snatched amount of Rs. 500/-. He also demarcated the place of occurrence and stated that the mobile snatched from the victim had been thrown by him in the fields of village Karandi. The said mobile could not recovered from the place of occurrence. 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 petitioners along with the co-



accused are facing trial. They 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.

6. The present petition has been filed by the petitioners on the grounds and it is argued by his counsel that they have been falsely implicated in this case. PW-5 Babu Ram on the basis of whose statement, the petitioners had been nominated as an accused, has not supported the prosecution version. The petitioners were not named in the FIR. Petitioner No.1 is in custody since 02.03.2022. Petitioner No.2 is in custody since 03.03.2022. The blood detected on the knife allegedly recovered from petitioner No.1 has been found to be inconclusive as per the FSL report. The recovery of Rs. 500/- as part of snatched money has been falsely planted upon petitioner No.2. The material witnesses have not disclosed anything incriminating against the petitioners. Co-accused Rajbir whose case on similar footing had been extended benefit of bail. On parity, the petitioners too deserve to be given the same benefit. Hence, it is urged that the petition deserves to be allowed.

7. Status report has been filed by the respondent-State. Learned State counsel has argued in terms of the status report that the victim had gone missing. His dead body was found later on. On obtaining call detail record of his mobile phone, it was found that on the fateful day at about 9:59 PM an SMS was received at his mobile phone from the mobile phone of PW-Babu Ram. On joining investigation PW-5 had disclosed that the victim had made a call from his phone by saying that his own mobile phone has



been lost. He came to the house of the co-accused Rajbir as a Cab driver. He also disclosed that three persons had alighted from the said vehicle. Learned State counsel has argued that the allegations against the petitioners are serious in nature. There are chances of their absconding, if extended benefit of bail. Therefore, it is argued that the petition does not deserve to be allowed.

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

9. As per the allegations, the accused Rajbir in furtherance of his common intention with the petitioner and other co-accused had committed murder of the victim, after having him abducted and robbing of his money. However, the witnesses namely PW-1 Sandeep, Taxi Driver, PW-2 Lalit Kumar brother of the deceased, PW-4 Ganga Ram, Taxi Driver and PW-5 Babu Ram have not supported the prosecution version with regard to the involvement of the petitioners in the offence of murder of the victim. The case is based upon circumstantial evidence. The blood detected on the knife allegedly recovered at the instance of petitioner No.1- Sandeep is found to be inconclusive. The petitioners are in custody since 02.03.2022/03.03.2022. The trial is likely to take time. Taking into consideration the nature of the evidence which has come on record, the period of incarceration of the petitioners and 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 petitioners deserve to be extended benefit of bail at this



stage. Hence, the petition is allowed and the petitioners are ordered to be released on bail subject to their furnishing personal/surety bonds with one surety in the like amount each to the satisfaction of the Chief Judicial Magistrate/ Duty Magistrate concerned.

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

[MANISHA BATRA]
JUDGE

20th September, 2024
Parveen Sharma

- | | | |
|-------------------------------|---|----------|
| 1. Whether speaking/ reasoned | : | Yes / No |
| 2. Whether reportable | : | Yes / No |