



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

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CRM-M-42149-2024

Date of Decision: 21.10.2024

DIWANSHU ALIAS NEESHU

...Petitioner

Vs.

STATE OF HARYANA

...Respondent

CORAM : HON'BLE MR. JUSTICE N.S.SHEKHAWAT

Present : Mr. Anoop Singh Sheoran, Advocate, for the petitioner.

Mr. Rajinder Kumar Banku, DAG, Haryana.

N.S.SHEKHAWAT, J. (Oral)

1. The petitioner has filed the instant petition under Section 439 of the Code of Criminal Procedure with a prayer to grant a regular bail to the petitioner in case FIR No.217 dated 24.04.2022 registered under Sections 302 and 201 of IPC at Police Station Sector 10, District Gurugram.
2. Status report by way of an affidavit of the Assistant Commissioner of Police, West, Gurugram has been filed on behalf of the respondent-State and the same is taken on record.
3. FIR in the present case was registered on the basis of a statement made by Atal Kumar son of Dharamdutt and the same reads as under:-

“That I am Atal Kumar, son of Shri Dharamdutt, resident of village Barauna Kalan, police station Erwa Katra, district Auraiya, Uttar Pradesh and we are two brothers,



my younger brother's name is Amit Mishra, aged about 40 years, my younger brother lives with his wife Sangeeta and one of his children. Basai with little girl age 8 months. My brother Amit Mishra's wife Sangeeta called me yesterday and informed me that Amit Mishra is missing from home since 21-04-2022, on which I am searching for my brother Amit Mishra today. At around 10-11 am, I reached the rented house of my brother Amit Mishra in Basai Enclave, Gurugram and inquired about the entire incident from my brother Amit Mishra's wife, from which I came to know that my brother had died on 21-04-2022 in the evening. At around 7-8 o'clock, I had gone somewhere from my house without telling anything to anyone on my scooter number HR-26DV-9515 HONDA ACTIVA, which had a mobile phone whose number was 9911046316, which my brother Amit Mishra's wife Sangeeta told me. When Amit Mishra's neighbor Shiva had talked to Amit Mishra's mobile phone number 9911046316 from his mobile phone number 6267640954, on which Amit Mishra told Shiva that he was drunk and could not come right now, which Shiva said to my brother. I told Amit Mishra's wife Sangeeta that till now my brother Amit Mishra has not returned to our house, I received information that some person's dead clothes (tied in a blanket) were found submerged in the dirty drain water. Which was taken out from the dirty drain by the police and kept in the mortuary Gurugram, on which I reached the mortuary Gurugram with my brother Amit Mishra's wife Sangeeta and landlord Satyaveer, where I saw my brother's dead body, which was my brother's. After seeing the body, I



am fully convinced that my brother Amit Mishra has been killed by some unknown persons and his father has thrown his body into the Gadoli dirty drain to disintegrate it by some unknown accused. The strictest legal action should be taken against them and now I have written this complaint in my writing and given it to you. Action should be taken. sd Atal Kumar son of Shri Dharamdutt resident of village Barauna Kalan police station Erwa Katra district Auraiya Uttar Pradesh 7819990730, date 24-04-2022 time 02-00 PM action police action police today I was present at the police station when information was received that some name was found near Gadoli dirty drain. An unknown person has been found dead, wrapped in a cloth bundle, drowned in the water of a dirty drain, on the information of which I, my friend P/SI Lalit Kumar, Sub Inspector Arun Kumar number 165/Gurugram with personal laptop, constable Satish Kumar number 3411, Home Guard constable Manoj Kumar number 125/Gurugram, vehicle government Bolero number HR-26EH-6202 driver constable Rajbir • Singh number 2241/Gurugram reached the spot Gadoli dirty drain. Where Nash was lying in a dirty drain tied in a bundle of clothes, he was taken out and photographs of Nash were taken for identification at the spot and Dr. Vinod Kumar of the Scene of Crime team was called at the spot itself, who gave his personal report. Has been asked to prepare the report and submit it. After this, the cloth (bedspread) in which the dad, body, name, address, name and address were tied and the mobile charger, a bedsheet, a pillow, a slipper and a shirt lined with sky blue clothes found



inside the bedsheet were put in separate cut plastic bags. It was sealed with one stamp of AK and the cut plastic was sealed with AK stamp and as per the list received, it was taken to the police and as the dead body could not be identified at the spot, Nash was taken to the police for further investigation by arranging for a private ambulance. Mortuary brought to Gurugram where after waiting the deceased's brother Atal Kumar son of Shri Dharamdutt resident of village Barauna Kalan police station Erwa Katra district Auraiya Uttar Pradesh came present and identified the said dead body in the name of his real brother Amit Mishra and one of his A written complaint has been submitted, based on the complaint received and inspection of the dead body obtained from the spot, it is found that the crime under section 302, 201 IPC has been committed, therefore, by writing this article, a case has been filed against Badst Constable Satish Kumar No. 3411/Gurugram police station. It is being sent later. Please inform the number mentioned in the case. I am busy in the proceedings under section 174 of the Criminal Procedure Code in the Mortuary, Gurugram. SD Sub Inspector Satpal Singh, Managing Officer Police Station Sector 10A Gurugram. District Gurugram. Date 24-04-2022, 9015663400 Time 03-00 PM Aaj Police Station: On receipt of the above article at the police station, the above indictment was entered in the computer as per the above section and full copies were prepared. The special report will be sent to Bajaria Email-id in the service of higher officials or area magistrate. Satish Kumar number 3411/ Gurugram copy misal police original article 10 passes were sent to the



incident site for further action. This case was filed in the presence of ESI Jagdish Chand. 1/0 SI SATPAL SINGH PS SEC-10A GURUGRAM, MOB. NO. 9015663400”

4. Learned counsel for the petitioner contends that from the FIR, it is clear that the petitioner was not named in the FIR and even from the contents of the FIR, no offence was made out against the petitioner. He contends that even the petitioner had no motive to inflict injuries on the person of the deceased and a false story has been planted upon by the prosecution to involve him in a false criminal case. Further, the petitioner was arrested in the present case on 25.04.2022 and has been in custody since then. Thus, the conclusion of the trial may take quite a long time and he prayed that he may be released on bail.

5. On the other hand, learned State counsel has vehemently opposed the submissions made by learned counsel for the petitioner on the ground that the police had collected sufficient incriminating evidence against the petitioner and he was arrested on 25.04.2022. He contends that as per the investigation, the petitioner had an altercation with Amit Mishra (deceased) while they were consuming liquor together. During the altercation, the petitioner had strangled the deceased and the deceased had lost consciousness. Apart from that, the petitioner had picked one iron rod and caused repeated blows on the person of Amit Mishra (deceased) and Amit Mishra finally



succumbed to his injuries. The petitioner and his brother Badal had brought one cart and had thrown the dead body of Amit Mishra in a drain. Even the weapon of the offence was recovered at the instance of the petitioner and scooty of the deceased and the said cart were also recovered from him.

6. I have heard the learned counsel for the parties and perused the record.

7. In the present case, there are specific allegations against the petitioner that he had caused injuries with an iron rod on the person of Amit Mishra (deceased) and he had succumbed to the said injuries.

8. Keeping in view the serious allegations levelled against the present petitioner. Therefore, the present petition deserves to be dismissed.

9. Ordered accordingly.

21.10.2024

(N.S.SHEKHAWAT)

M.Sikka

JUDGE

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