



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

214

CRM-M No.42399 of 2024
Date of Decision: 19.11.2024

Nikhil Kumar ... Petitioner

Versus

State of Haryana ... Respondent

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present: Mr. Mayur Karkra, Advocate,
for the petitioner.

Mr. Neeraj Poswal, AAG, Haryana,
for the respondent-State.

MANISHA BATRA, J. (Oral)

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

FIR No.	Dated	Police Station	Sections
482	15.12.2022	Cheeka, District Kaithal	346 of IPC (364, 302, 201, 120-B, 212 and 34 of IPC were added later on)

2. The aforementioned FIR was registered on the complaint lodged by the complainant Ajay Kumar on 15.12.2022 alleging therein that the victim Amit Kumar, who was his cousin brother, had left home for his work in the morning of 14.12.2022 and did not return. On making search, the motorcycle of the victim was found to be parked outside Devilal Park but the whereabouts of the victim could not be known. After

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registration of FIR under Section 346 of Indian Penal Code, investigation proceedings were initiated. During investigation, the complainant and his family members recorded statements alleging that the accused Balwinder @ Popli, Narender Singh @ Nihal, Sagar and the present petitioner had hatched a conspiracy and in pursuance thereof, they had abducted the victim and committed his murder. On their statements, offences under Sections 302, 364 read with Section 34 of IPC were added. The petitioner along with co-accused Balwinder @ Popli and Narender Singh @ Nihal was arrested on 18.12.2022. They were interrogated and suffered disclosure statements admitting their involvement in the subject crime and also disclosed that they had abducted the victim on account of dispute between accused Balwinder @ Popli and the victim, on account of some money transaction and after strangulating the victim with a rope, they had thrown his dead body in the Harike Pattan canal at Tarn Taran.

3. As per the further allegations, the petitioner got recovered the mobile phone of the victim. Subsequently co-accused were also arrested. The dead body of the victim was recovered from the canal and was identified. Inquest proceedings and post-mortem examination of the same were conducted. The accused Balwinder Singh, the petitioner and the other co-accused suffered subsequent disclosure statements narrating the manner in which the crime was committed. Offence under Section 212 of IPC was also added subsequently and co-accused Akashdeep was arrested. Investigation has since been completed and the petitioner along with the co-accused is facing trial for commission of aforementioned offences.

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4. The present petition has been filed by the petitioner on the grounds and it has been argued by his counsel that he was not named in the FIR. No specific role has been attributed to him. He has been implicated in this case on the basis of suspicion. There is no direct evidence to the murder of the victim. The case is based on circumstantial evidence. The circumstances quoted by the prosecution have not been established as the material witnesses have turned hostile and have not supported the prosecution case. Recovery of mobile phone belonging to the deceased was falsely planted upon the petitioner since as per the testimony of brother of the victim, the mobile of the victim was recovered from his motorcycle itself. The extra judicial confession of the petitioner is alleged to have been made before the co-accused which cannot be considered to be admissible in evidence. He is in custody for a period of about two years. His further detention would not serve any useful purpose. Therefore, it is urged that he deserves to be released on bail.

5. Status report has been filed by the respondent-State. Learned State counsel has argued that keeping in view the gravity of the allegations as levelled against the petitioner, he does not deserve to be released on bail. Therefore, it is urged that the petition is liable to be dismissed.

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

7. The petitioner along with the co-accused is alleged to have hatched a conspiracy and in pursuance thereof, to have killed the victim by strangulating him with the help of a rope and as per the further allegations,

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he along with the co-accused had thrown the dead body of the victim in the canal. The copies of statements of PW-1 Ajay i.e. complainant, PW-2 Dinesh Kumar, cousin brother of the victim, PW-3 Veerbhan, father of the victim and PW-5 Kamlesh Rani, mother of the victim, have been placed on record as Annexures P-15 to P-18 respectively and a perusal of the same reveals that neither of them implicated the petitioner in the commission of the subject offences. All these witnesses are shown to have turned hostile and have not made any deposition to connect the petitioner with the allegations as levelled against him. In view of the nature of the evidence which has come on record in the form of statements of the material witnesses, the period spent by the petitioner in custody, the fact that the case is based on circumstantial evidence and the material witnesses have not made deposition to support the circumstantial evidence and the attendant facts and circumstances but without meaning to make any comment on the merits of the case, I am of the opinion that the petitioner deserves to be extended benefit of bail. Hence, the petition is allowed and the petitioner is ordered to be admitted to bail subject to his furnishing personal as well as surety bonds to the satisfaction of learned trial Court/Illaqa Magistrate/Chief Judicial Magistrate.

19.11.2024
Parveen Sharma

(MANISHA BATRA)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No