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**225 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH****CRM-M-44351-2024**

Date of Decision: 12.09.2024

Sonu @ Avinash

..... Petitioner

Versus

State of Haryana

.....Respondent

CORAM: HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present: Mr. Munfaid Khan, Advocate for the petitioner.

Mr. Tanuj Sharma, AAG, Haryana.

Rajesh Bhardwaj, J. (ORAL)

1. Petitioner has approached this Court by way of present petition praying for granting him regular bail in case FIR No.190 dated 20.05.2022, under Sections 302, 201, 34 IPC, registered at Police Station NIT Faridabad, Faridabad.

2. As per facts of the case, the complaint was filed by the complainant, namely, Sahab Singh, wherein, it was alleged that his younger brother, namely, Hari Govind was 52 years of age and used to reside in a dilapidated building of Malaria Department of BK Hospital, Faridabad. It was stated in the complaint that on 20.05.2022, he received telephonic information that his younger brother was killed by some unknown person by giving stone blow on his head. On receiving the information, he reached at the spot and found his brother lying dead. Prayer was made to take legal action against the culprits. On the complaint filed, the FIR was registered and the investigation commenced. After the lodging of the FIR, on 22.05.2022, the Investigating Agency recorded statement of Rahul @ Bhura, wherein, he stated that accused Sunil had confessed before him that he alongwith Avinash Chandila has committed the offence and request was



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made to him to produce them before the Police. Thus, extra judicial confession of Rahul @ Bhura was recorded by the Police. Statement of one Lakhan was also recorded, wherein, he deposed that he is the witness of the occurrence, wherein, the brother of the complainant was killed by the accused. On recording the statements, the petitioner was arrested on 23.05.2022. The petitioner approached the Court of learned Additional Judge, Faridabad praying for grant of regular bail, however, on hearing both the sides, learned Court declined the same vide order dated 09.08.2024. Hence, the petitioner is before this Court by way of filing the present petition praying for grant of regular bail.

3. It has been vehemently contended by counsel for the petitioner that petitioner has been falsely and frivolously implicated in this case. He submits that from the facts and circumstances of the case, it is apparent that the alleged murder of the deceased is nothing but a blind murder as there is no witness to the occurrence. He submits that in order to implicate the petitioner, the Investigating Agency has manipulated the evidence and thus, introduced Rahul as a witness of extra judicial confession and Lakhan as an eye witness. He has submitted that both these witnesses have been examined by the trial Court as PW-1 and PW-3, respectively, however, both of them have not supported the case of the prosecution. To buttress his arguments, he further submits that brother of the deceased, namely, Hari Parsad, who is examined by the trial Court as PW-5, has also not supported the case of the prosecution. It is submitted that as on date, six material witnesses have been examined by the trial Court and none of them have supported the case of the prosecution. It is submitted the petitioner has no criminal antecedents and he



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is behind bars from the last more than two years and thus, deserves to be granted regular bail.

4. Per contra, learned State counsel has opposed the submissions made by counsel for the petitioner. He has submitted that though the petitioner was not named in the FIR, however, during the investigation, his complicity has been established. However, he submits that witness of extra judicial confession and eye witness, though have not supported the case of the prosecution, however, yet deposition of the hostile witnesses cannot be wholly discarded as per the law settled and prosecution has other evidence as well to prove its case. He submits that out of total 25 prosecution witnesses, 06 witnesses have been examined so far. It is submitted that as per instructions received, the petitioner has no criminal antecedents.

5. Heard.

6. After hearing counsel for the parties and perusing the record, it is apparent that the FIR was registered against unknown person, however, during the investigation the statements of the witnesses were recorded by the Investigating Agency. Witness of extra judicial confession, namely, Rahul @ Bhura was examined as PW-1 and eye witness, namely, Lakhan was examined as PW-3. Both these witnesses have not supported the case of the prosecution. Another brother of deceased, namely, Hari Parsad, who was examined as PW-5, has also not supported the case of the prosecution. There is nothing on record to show that the petitioner is involved in any other case.

7. The veracity of the allegations would be assessed only after the conclusion of the trial and on the appreciation of evidence to be led by both the parties before the trial Court. This Court would refrain itself from commenting anything on the merits of the case. The trial of the case will



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take sufficient long time as only six witnesses have been examined so far. Keeping in view the arguments raised by both the sides and perusing the record, this Court is of the opinion that learned counsel for the petitioner succeeds in making out a case for grant of regular bail to the petitioner.

8. Accordingly, the present petition is allowed and the petitioner is ordered to be released on bail on his furnishing bail/surety bonds to the satisfaction of the concerned trial Court/Duty Magistrate. Nothing said herein shall be treated as an expression of opinion on the merits of the case.

(RAJESH BHARDWAJ)
JUDGE

12.09.2024
sharmila

Whether Speaking/Reasoned :	Yes/No
Whether Reportable :	Yes/No