



CRM-M-46911-2024

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

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CRM-M-46911-2024

Date of decision: 27th November, 2024

Nilesh Kumar @ Mithun

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present: Mr. Mohit Rathee, Advocate for the petitioner.
Mr. Neeraj Poswal, AAG, Haryana.

MANISHA BATRA, J (ORAL):-

The present petition has been filed by the petitioner under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (for short 'BNSS') in case bearing FIR No. 116 dated 14.02.2022 registered under Sections 302 and 201 of IPC, 1860 (Sections 34, 382, 404 of IPC added during investigation) at Police Station Shivaji Colony, District Rohtak.

2. The petitioner along with the co-accused is facing trial for commission of aforementioned offences on the allegations that on the night of 06.02.2022, he along with the co-accused, had taken the victim to a secluded place existing at some distance from the rooms, wherein the victim and they themselves had been residing and then all of them had opened an assault upon him with an iron rod, had strangulated him and had also caused other injuries on his person, thereby causing his death. Thereafter, they had taken an amount of Rs. 1,50,600/- and a mobile phone belonging to the victim and had distributed the money amongst themselves whereas his



phone was taken by the petitioner. The dead body of the victim was thrown in the sewer drain. It was recovered from the sewer drain in the area of Ekta Colony, Rohtak on 14.02.2022. The dead body was identified by Babu Sahib Ram Yadav who is brother of the victim on 17.02.2022. Post-mortem examination and inquest proceedings thereof were conducted. The petitioner and co-accused were apprehended and arrested on the basis of statement recorded by Babu Sahib and Sohan Yadav.

3. It is argued by learned counsel for the petitioner that he has been falsely implicated in this case. He is in custody since 29.06.2022. There is no eye-witness to the incident. He has been implicated in this case on the basis of statement of Babu Sahib who has not been examined so far. Trial is likely to take time. No useful purpose would be served by detaining him in custody anymore. Only six prosecution witnesses out of thirty-one prosecution witnesses have been examined so far. Therefore, it is urged that he deserves to be released on bail.

4. Status report has been filed by respondent-State. It is submitted therein that there are serious allegations against the petitioner who along with the co-accused had taken the victim to an abandoned place, made him consume alcohol and then committed his murder by strangulating him and causing injuries on his person. As per FSL report, Ethyl alcohol was detected in viscera contents of the dead body. The recovery of cellphone of the victim has been effected at the instance of the petitioner from his custody. The allegations against him are serious in nature. Trial may be expedited.

Therefore, it is argued that the petition does not deserve to be allowed.



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

6. The petitioner along with the co-accused is alleged to have committed the murder of the victim and is further alleged to have taken money and mobile phone belonging to the victim after his death and shared money of the victim with the co-accused. He along with the co-accused is alleged to have caused disappearance of dead body of the victim by throwing the same in sewer drain. Allegations against the petitioner are quite serious in nature. Trial is going on. Solely on the basis of the period of custody, the petitioner cannot be extended benefit of bail. Keeping in view the gravity of allegations as levelled against him, the quantum of sentence which the conviction may entail and the 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 petition does not deserve to be allowed. Accordingly, the same is dismissed.

7. Since the main petition has been dismissed, pending application, if any, is rendered infructuous.

[MANISHA BATRA]
JUDGE

27th November, 2024

Parveen Sharma

1. *Whether speaking/ reasoned*
2. *Whether reportable*

: *Yes / No*
: *Yes / No*