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

**CRM M-51196-2023 (O&M)**

**Date of Decision: 09.05.2024**

Mahender Pal

.....Petitioner

Versus

State of Haryana

.....Respondent

**CORAM: HON'BLE MR.JUSTICE MAHABIR SINGH SINDHU**

Present: Mr. Sanchit Punia, Advocate,  
for the petitioner.

Mr. Kiran Pal Singh, AAG, Haryana.

**MAHABIR SINGH SINDHU. J.**

Present petition has been filed under Section 439 of Code of Criminal Procedure, 1973 for seeking bail pending trial in FIR No.35 dated 13.08.2021 registered under Sections 302 read with Section 34 IPC, at Police Station, GRP Hisar, District GRP Ambala Cantt.

2. Dead-body of nephew of informant, namely, Gopiram was found near the railway track, Hisar. A suspicion was raised that he had been murdered by one Santosh with the help of some other person(s). Said Santosh joined investigation and she named the petitioner as the person, who could have murdered Gopiram; thus petitioner was arraigned as an accused in the present case.

3. Learned counsel contends that petitioner is not named in the FIR. Also contends that it is a blind murder and there is no material regarding the complicity of petitioner. Also contends that main witnesses, namely, Kameshwar and Tara Chand, PW-1 and PW-2, respectively did not support the case of prosecution. Also contends that while sending the alleged recovered clothes of petitioner as well as co-accused Rohit @ Pankaj, for analysis to FSL,

the investigating officer has not specified the clothes of each accused; therefore,



it is impossible to determine which cloth belongs to which accused. Also contends that wife of petitioner had expired on 22.08.2019 and there is no one in the family to take care of girl child, aged 23 years. Further contends that petitioner is in custody since 26.08.2021 and conclusion of trial will take sufficient long time; thus he be released on bail pending trial.

4. *Per contra*, learned State counsel while opposing the prayer submits that petitioner has been nominated on the basis of statement made by Santosh with whom deceased Gopiram had physical relations and petitioner is the brother-in-law of said Santosh. Also submits that clothes of petitioner were sent for analysis and blood stains have been detected on the same. Further submits that PW-1 & PW-2 are not the witnesses of murder; hence their turning hostile will not cause any dent to the prosecution case, at this stage.

5. Heard learned counsel for the parties and perused the paper-book.

6. It is a case based on circumstantial evidence. The five golden principles enunciated by Hon'ble the Supreme Court in oft-cited judicial pronouncement ***Sharad Birdhichand Sarda Vs. State of Maharashtra (1984) 4 SCC 116*** need not be repeated here as this Court is not holding a trial. For the adjudication of bail application, the circumstances put forth are that dead body of deceased was found from the railway track. As per version of Santosh, she had physical relations with the deceased. Petitioner is none else than the brother-in-law of said Santosh; thus, motive can be well imagined.

7. Apart that, as per FSL report, two pants were received for analysis and blood was detected on both the pants; hence the argument of learned counsel for petitioner that the clothes were not sent separately shall pale into insignificance, particularly when seals were found intact by the Forensic Experts.



8. Moreover, PW-1 Kameshwar (Keyman at Railway Station, Hisar) is only a witness to the recovery of dead body and PW-2 Taran Chand (informant) is not an eye witness of the alleged murder; rather he is an informant and certain recoveries were made in his presence. Above all, their testimonies shall be examined by learned trial Court, at an appropriate stage. Since present case is based on circumstantial evidence and learned State counsel has specifically submitted that release of petitioner, at this stage, shall hamper the trial.
9. Consequently, there is no option, except to dismiss the petition.
10. Ordered accordingly.
11. The above observations be not construed as an expression of opinion on the merits of the case in any manner.
12. Pending application(s), if any, shall also stand disposed off.

09.05.2024  
SN

(MAHABIR SINGH SINDHU)  
JUDGE

Whether speaking/reasoned : Yes/No  
Whether Reportable: Yes/No