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

CRM-M-49470-2024**Date of Decision: 15.10.2024**

Sahil

...Petitioner

vs.

State of Haryana

...Respondent

Coram : Hon'ble Mr. Justice N.S.Shekhawat

Present : Mr. Robin Dutt, Advocate
for the petitioner.

Mr. Rajinder Kumar Banku, Deputy Advocate General, Haryana.

N.S.Shekhawat J. (Oral)

1. The petitioner has filed the instant petition under Section 439 of the Cr.P.C. with a prayer to grant regular bail in case FIR No.200 dated 06.10.2021 registered under Section 346 IPC (later on Sections 302, 120-B, 34 of IPC was added) at Police Station Shahzadpur, District Ambala.

2. Learned counsel for the petitioner contends that as per prosecution version, Gaurav, son of the complainant was found missing on 02.10.2021 and ultimately one FIR No.200 dated 06.10.2021 under Section 346 of IPC was registered at Police Station Shahzadpur, District Ambala. During the course of investigation, the dead body/skeleton of Vishal was recovered on 30.12.2021 and again the statement of the complainant (Annexure P-2) was recorded wherein the complainant did not raise any suspicion against anyone. Surprisingly, on 26.05.2022, again the supplementary statement of Darshan Lal, complainant was recorded on 26.05 2022 and the petitioner was named only on the basis of the supicion. Learned counsel further contends that even the motive



alleged against the present petitioner was very weak and he was wrongly arrested by the police on 31.05.2022. Learned counsel further contends that only 03 witnesses, out of total 44 witnesses, have been examined so far and further custody of the petitioner will not serve any meaningful purpose.

3. On the other hand, learned State counsel has vehemently opposed the submissions made by learned counsel for the petitioner on the ground that there was sufficient incriminating evidence against the petitioner. Even as per tower location of the mobile of the petitioner, his location was found near the deceased on the date of occurrence. Apart from that, supplementary statement of the complainant was also recorded by the police, which proves the involvement of the petitioner in the crime.

4. I have heard rival contentions made by learned State counsel as well as learned counsel for the petitioner.

5. In the present case, the DNA was conducted by FSL Madhuban and the said DNA report has been attached as Annexure P-4 with the present petition. However, the said report does not support the case of the prosecution. Still further, the name of the petitioner appeared as an accused at a very late stage and his involvement in the crime is yet to be adjudicated by the trial Court during the course of trial. However, the petitioner is in custody for the last more than 2 years and 4 months and no purpose will be served by keeping the petitioner behind bars.

6. Without commenting on the merits of the case, the present petition is allowed and the petitioner is ordered to be released on bail subject to his furnishing bail bonds/surety bonds to the satisfaction of the trial Court/Duty Magistrate/Chief Judicial Magistrate, concerned subject to the following conditions:-

- (i) *The petitioner shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case, so as to dissuade him to disclose such facts to the Court or to any other authority.*
- (ii) *The petitioner shall remain present before the Court on the dates fixed for hearing of the case.*
- (iii) *The petitioner shall not absent himself from the Court proceedings except on the prior permission of the Court concerned.*
- (iv) *The petitioner shall surrender his passport, if any, (if already not surrendered), and in case he is not holder of the same, he shall swear an affidavit to that effect.*
- (v) *The petitioner shall also file his affidavit before the concerned Court, mentioning his ordinary place of residence and number of mobile phone, which shall be used by him during the pendency of the trial. In case of change of place of residence/mobile number, he shall share the details with the concerned Court/learned Trial Court.*
- (vi) *In case, the petitioner involves in any other criminal activity, during the pendency of the trial, it shall be viewed seriously.*
- (vii) *The concerned Court may insist on two heavy local sureties and may also impose any other condition, in accordance with law, while accepting the bails bonds and surety bonds of the petitioner.*

15.10.2024.
hemlata

(N.S.SHEKHAWAT)
JUDGE

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