

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

CRM-M-55035-2023(O&M)

Date of Decision:-29.01.2024

Anil Nagar.

.....Petitioner.

Vs.

State of Haryana.

.....Respondent.

CORAM:- HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present:- Mr. S.S. Nain, Advocate for the Petitioner.

Mr. Kanwar Sanjiv Kumar, Assistant Advocate General,
Haryana.

JASJIT SINGH BEDI, J.(ORAL)

The Prayer in this petition under Section 439 Cr.PC is for the grant of regular bail in case FIR No.845 dated 07.09.2018 under Sections 302, 34 IPC and later on added Sections 362, 201, 392, 411 and 414 IPC registered at Police Station City Ballabhgarh and District Faridabad.

2. The present FIR came to be registered at the instance of Tara Chand who stated that his brother Hoshiyar Singh (deceased) had been found dead and he suspected Anil and his associates.

During investigation of FIR No.189 of 2018 registered at P.S. Bahin, District Palwal it was disclosed by Police Station Sirsaganj, District Firozabad, U.P. that Anil Nagar (petitioner), Himanshu and Rahul were arrested in FIR No.398 dated 3.9.2018 under Section 307 IPC P.S. Bidhuna, District Auraiya, U.P. and the accused had disclosed that they had committed the murder of Hoshiyar Singh in the area of P.S. Sirsaganj, U.P.

after taking the Wagon-R no.HR-38X-3541 on hire.

The post mortem revealed that the cause of death was Asphyxia. The case was transferred to P.S. Ballabhgarh, District Faridabad and a cancellation report in case FIR No.189 dated 3.9.2018 P.S. Bahin, District Palwal was prepared due to the reason that the offence had occurred in the jurisdiction of P.S. City Ballabhgarh which is mentioned in the FIR No.85 of 2018.

During the investigation the accused persons namely Anil Nagar and Himanshu were joined in the investigation through production warrants and arrested. They suffered their disclosure statements and Section 201 IPC was added in the present case.

As per investigation, there are 06 accused in the present case namely Anil Nagar, Rahul, Himanshu, Nitin and Parveen whereas one accused Chotte has been declared a proclaimed offender.

3. The Counsel for the petitioner contends that he has been has been falsely implicated in the present case. There is absolutely no admissible evidence inculcating the petitioner. He has been arrested on the basis of disclosure statement made in another case. As the petitioner was in custody since 8.10.2018 and only 02 of the 33 prosecution witnesses had been examined so far, he was entitled to the concession of bail as the Trial had been inordinately delayed.

4. The Counsel for the State on the other hand has filed reply dated 24.01.2024 by way of affidavit of Mr. Vinod Kumar, HPS, Assistant Commissioner of Police, Ballabhgarh, District Faridabad in court today, which is taken on record. While referring to the said reply, he contends that the petitioner and his co-accused took the vehicle on hire and murdered the driver Hoshiyar Singh. As per the CDR location of the accused it was

apparent that they were present at the place of occurrence. Therefore, as the offence stood *prima facie* established, the petitioner was not entitled to the concession of bail, moreso when he had 04 other cases pending against him. He however, concedes that the petitioner was in custody since 08.10.2018 and only 02 of the 33 prosecution witnesses have been examined so far.

5. I have heard the learned counsel for the parties.

6. The veracity of the prosecution case against the petitioner and his co-accused shall be adjudicated upon during the course of the Trial. Admittedly, the petitioner is in custody since 8.10.2018 but only 02 of the 33 prosecution witnesses have been examined so far. Article 21 of the Constitution of India provides for a right to speedy Trial which *prima facie* seems to have been violated in the instant case. Therefore, the further incarceration of the petitioner is not required.

7. Thus without commenting on the merits of the case, the present petition is allowed and the petitioner-**Anil Nagar** son of Sh. Shankar Lal ordered to be released on bail subject to his furnishing bail bonds and surety bonds to the satisfaction of learned CJM/Duty Magistrate, concerned.

8. The petitioner shall appear before the police station concerned on the first Monday of every month till the conclusion of the trial and inform in writing each time that he is not involved in any other crime other than the cases mentioned in the affidavit of the State dated 24.01.2024.

9. If the petitioner or any of his family members/associates make any attempt to contact/threaten/intimidate the witnesses in the present case, the State would be at liberty to move an application for cancellation of bail granted vide this Court.

10. In addition, the petitioner (or anyone on his behalf) shall prepare an FDR in the sum of Rs.1,00,000/- and deposit the same with the

Trial Court. The same would be liable to be forfeited as per law in case of the absence of the petitioner from trial without sufficient cause.

11. The petition stands disposed of.

(JASJIT SINGH BEDI)
JUDGE

January 29, 2023
Vinay

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