



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

**Criminal Revision No. 2763 of 2023 (O&M)
Date of Decision: 08.05.2024**

Kaptan @ Bittu

..... Petitioner

Versus

State of Haryana

..... Respondent

CORAM: HON'BLE MR. JUSTICE HARKESH MANUJA

Present: Mr. Dinesh Kumar, Advocate
for the petitioner.

Mr. Gagandeep Singh Chhina, Assistant Advocate General, Haryana
for the respondent.

HARKESH MANUJA, J. (ORAL)

The petitioner, by way of present revision petition, seeks setting aside of an order dated 26.09.2023, passed by the learned Sessions Judge, Fatehabad, whereby an application moved on behalf of the petitioner-accused for seeking direction to Investigating Officer / SHO of the concerned police station to take DVR / CCTV Footage from the house of Ajit son of Sh. Bahadar, resident of Village Gajuwala, Tehsil Tohana, District Fatehabad and of Pala son of Chandu, resident of Village Gajuwala, Tehsil Tohana, District Fatehabad, for sending the same to the FSL, Madhuban for retrieving the CCTV Footage / video recording from the same pertaining to period from 19.04.2022 to 21.04.2022, stands declined

[2] Briefly, the petitioner was arrayed as an accused in FIR No. 0101 dated 20.04.2022 under Section 302 of IPC, registered at Police Station Sadar Tohana, District Fatehabad, on a complaint made by one Balbir for alleged murder of Krishan. Challan was presented before the Illaqa

Magistrate on 01.07.2022 and charges were framed by the trial Court on 07.10.2022. While the prosecution evidence was going on, the petitioner moved an application for issuance of direction to the Investigating Officer to take DVR / CCTV Footage from the house of Ajit and Pala. The aforesaid application was opposed at the instance of prosecution. The trial Court, vide order dated 26.09.2023, declined the prayer made by the petitioner in the said application.

[3] Impugning the aforesaid order dated 26.09.2023, learned counsel for the petitioner submits that the CCTV Footage / video recording from the DVR pertaining to the houses of Ajit and Pala as regards the period between 19.04.2022 to 21.04.2022, were very much essential to establish the innocence of the petitioner. He further submits that dismissal of the application caused serious prejudice to the rights of petitioner as the aforementioned material evidence was never collected by the prosecution agency to the dis-advantage of the petitioner-accused and thus, the impugned order was liable to be set aside.

[4] On the other hand, learned State Counsel vehemently opposes the prayer made on behalf of the petitioner, while submitting that the filing of application was not a *bona fide* act on the part of the petitioner as he only intended to delay the proceedings in the trial for avoiding the cross-examination of the prosecution witness. He also submits that on an earlier occasion, the petitioner moved an application for examination of the investigation officer, prior to the examination of complainant and other witnesses, with an idea to delay the proceedings in the trial, which was dismissed and the present application was also towards that direction only.

[5] After hearing learned counsel for the parties and gone through the paper-book, I am unable to find substance in submissions on behalf of the petitioner.

[6] In the present case, investigation in the FIR in question was concluded upon filing of final report under Section 173(2) Cr.P.C. before the Illaqa Magistrate on 01.07.2022 followed by framing of charges on 07.10.2022, whereas the present application was filed in the month of September 2023 i.e. after a period of almost one year and five months of the registration of FIR. No such prayer was ever made during the investigation, thus the idea of filing the present application apparently was to delay the trial.

In addition, it may be pointed out here that in the short reply filed on behalf of the respondent it has been pointed out that the CCTV recording in the house of Ajit and Pala Ram was stored by the DVR for a period of almost 10-15 days only and as such, the prayer made by the petitioner to preserve the CCTV Footage from 19.04.2022 to 21.04.2022, regarding which apparently a period of almost two years had elapsed, was practically impossible being unavailable. Relevant para-4 from the short reply filed on behalf of the respondent is re-produced hereunder:-

“ 4. That perusal from the statement of Ajeet and Pala Ram it was transpired that only 10 to 15 days CCTV recording is stored by the DVR and since the prayer of the petitioner is to preserve the CCTV footage from 19.04.2022 to 21.04.2022, hence, more than 2 years has been lapsed and there is no such CCTV recording/footage is available with them. Copy of statement of Ajeet and Pala Ram is appended herewith as Annexure R-1 & R-2.”

[7] Resultantly, in view of the discussion made hereinabove, finding no illegality and perversity in the impugned order dated 26.09.2023 passed by the learned Sessions Judge, Fatehabad, present revision petition is hereby **dismissed**.

[8] Pending miscellaneous application(s), if any, shall also stand disposed off.

May 08, 2024
'dk kamra'

(HARKESH MANUJA)
JUDGE

<i>Whether Speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether Reportable</i>	<i>Yes/No</i>