

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

CRM-M-64042-2023

Date of Decision:-29.04.2024

Neetu Kumar @ Dev.

.....Petitioner.

Vs.

State of Haryana.

.....Respondent.

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

Present:- Mr. Satyawan Singh Nain, Advocate for the Petitioner.

Mr. Kanwar Sanjiv Kumar, AAG 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.496 dated 06.09.2022 under Sections 302, 201, 147, 148, 149 and 120-B IPC registered at Police Station Sector 10-A, Gurugram, District Gurugram.

2. The present FIR came to be registered at the instance of Tanjil and reads as under:-

“ To the SHO police station Sector-10-A, Gurugram and District Gurugram. Sir, it is request that I am Tanzil age 37 years son of Kadir Khan, resident of Village Bhawanipur Post Dadi, Police Station Pipra Bazaar, District Supaul, Bihar and one of my sisters Nusrat Jahan Khatoon, who was elder than me, was married to Yar Mohd Khan son of Sh. Nasir Khan, resident of village Dadi Bhawanipur Post Dadi P.S. Pipra Bazar and

District Supaul Bihar, from whom three children were born, the elder girl and younger there was two boys, the name of the youngest boy was Arbaaz Khan, age 20 years, who lived at different places in Gurugram used to supply water, who used to call me from some other person's mobile phone, a few days ago I got a call from my nephew Arbaaz Khan that now I have stopped the water supply work and now I running an auto rickshaw No. HR-55AL-5646 owner of Inder at the rate of Rs.700/- per day and this auto rickshaw in named of Amarjeet brother of Inder. But I do not earn Rs.700/- in a whole day and when I tell Inder, that I cannot run the auto because you are asking for more money on which Inder said that if you are unable to do so, then pay the next month's rent in advance and leave my auto with me otherwise I will take Rs.700/- per day from you, due to the fear my nephew had come to Delhi Samaypur Badli with the above mentioned auto so that he could save some rupees by running the auto day and night, but now I have come to know that the above mentioned auto rickshaw owner Inderjeet Inder, who has already been jailed for many crimes, went to Delhi along with his other associates Kapil, Dev, Amar, Salmann, Naushad, Ashok, Arbaaz Etc. on the night of 02.09.2022, from where Inder came to Gurugram with my nephew Arbaaz Khan and the above mentioned auto rickshaw in the morning on 03.09.2022 and all the above persons, at the behest of Inderjeet Inder above, demanded my previous rent and one month's advance rent from my nephew, and non-payment of rent all these persons killed him by together attacked them with sticks, steel rode and kicks, and then they with the intention of hiding his dead body threw it at some place in sector-37 Gurugram. Today I have come to the

mortuary Gurugram with my brother-in-law Yaar Mohammad Khan mentioned above, where I saw the dead body of my nephew, he has been identified as my nephew Arbaaz khan mentioned above. Kindly take a legal action above mentioned persons as per law. Now I have given this complaint to you. Sd/- Tanzil age 37 years son of Kadir Khan, resident of Village Bhawanipur Post Dadi, Police Station Pipra Bazaar, District Supaul, and Bihar."

3. The learned counsel for the petitioner contends that the petitioner has been falsely implicated in the present case. Complainant Tanjil was examined as PW-4 and has not supported the prosecution case and has therefore been declared a hostile witness. The 04 videos purportedly showing the deceased being beaten up by the accused were also put to the said witness and he has not identified any of the accused in the said video. Similarly PW-5 Yaar Mohd. Khan father of the deceased has not supported the prosecution case. As the petitioner was in custody since 14.12.2022, but only 09 of the 31 prosecution witnesses had been examined so far, the trial of the present case was not likely to be concluded anytime soon and therefore, he was entitled to the concession of bail.

4. On the other hand, the learned State counsel has filed reply by way of an affidavit dated 06.04.2024 of Mr. Shiva Archan, HPS, Assistant Commissioner of Police, West, Gurugram in the court today, which is taken on record. While referring to the said affidavit he contends that the offence against the petitioner and his co-accused stood established beyond doubt. A wooden danda, iron saria and bamboo danda used in the occurrence were recovered from a co-accused. Similarly mobile phones were also recovered from some of the accused. The petitioner was clearly visible in the video recording of the incident. Therefore, he was not entitled to the concession

of bail. He however concedes that the complainant PW-4 Tanjil and PW-5 Yaar Mohd. Khan have been examined but have turned hostile. He also admits that the petitioner was in custody since 14.12.2022 and that only 09 of the 31 Pws have been examined so far.

5. I have heard the learned counsel for the parties.
6. Admittedly, two material witnesses have turned hostile. Whether the remaining evidence is sufficient to establish the guilt of the petitioner and his co-accused shall be adjudicated upon during the course of the Trial. As the petitioner is in custody since 14.12.2022 but only 09 of 31 Pws had been examined so far, the Trial of the present case is not likely to be concluded anytime soon. In this situation the further incarceration of the petitioner is not required.
9. Thus without commenting on the merits of the case, the present petition is allowed and the petitioner-**Neetu Kumar @ Dev** son of Sh. Dharampal is ordered to be released on bail subject to his furnishing bail bonds and surety bonds to the satisfaction of learned CJM/Duty Magistrate, concerned.
10. The petition stands disposed of.

(JASJIT SINGH BEDI)

JUDGE

April 29, 2024

Vinay

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