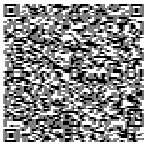


2025:PHHC:003439



IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

218 (02 cases) CRM-M-1837-2024 (O&M)
Date of Decision : 13.01.2025

MAHESH KUMAR PETITIONER
V/S

STATE OF HARYANA RESPONDENT

2. CRM-M-9816-2024 (O&M)

SANDEEP KUMAR ALIAS SUNNY PETITIONER
V/S

STATE OF HARYANA RESPONDENTS

CORAM : HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present : Mr. Ramnish Puri, Advocate and
Ms. Monika Tanwar, Advocate
for the petitioner(s).

Ms. Geeta Sharma, DAG, Haryana.

HARPREET SINGH BRAR, J. (Oral)

1. By this common order, the above said petitions are disposed of as issues involved and prayer sought are common. For the sake of convenience and with the consent of parties, the facts are borrowed from CRM-M-1837-2024.

2025:PHHC:003439



2. The present petition has been filed under Section 439 Cr.P.C. seeking regular bail in case bearing FIR No.0062 dated 07.03.2023 under Sections 304, 323, 342, 364-A and 386 of IPC and registered at Police Station Rewari City, District Rewari.

3. Brief facts of the case are that the present FIR has been registered on the written complaint moved by Janki Devi wife of Arjun Singh, resident of Village Narhar, P.S. Pilani, District Jhunjhunu, Rajasthan, who in her complaint, has averred that she is 70 years old. It has been alleged that on 27.08.2022 at about 10.00 AM, her son Ishwar Singh had gone to Pilani in connection with some urgent work and thereafter, he was missing. Yesterday, at about 05.00 PM, her son-in-law (Damaad) namely Karan Singh had received a phone call from Mahesh Kumar, who asserted to transfer Rs. 15 lacs and then only, they will leave Ishwar alive, otherwise, they will kill him. Thereafter, the said persons made to talk Karan Singh with Ishwar for many times. Ishwar asserted that the kidnappers were demanding Rs. 15 lacs from him and also requested to give the said amount to them, otherwise, they will kill him.

4. Learned counsel for the petitioner(s) *inter alia* contends that the petitioner has been falsely implicated in the FIR (supra) without there being, any incriminating material against them. The facts have been manipulated with regard to the natural death of Suresh Kumar who has never assaulted and confined by the petitioners.

5. Learned counsel for the petitioner(s) further submits that definite cause of “death” could not be ascertained, however, it is opined

2025:PHHC:003439



that the cause of death is the result of Isheroic Cardiac Events. It is further detected during the postmortem examination that the deceased has consumed alcohol prior to his death and also suffered injuries. As such, there is no material available on record to indicate that the deceased has suffered homicidal death. Further, the material witnesses PW1 to PW3 including the complainant and victim have not supported the case of prosecution. They have been declared hostile by learned Public Prosecutor. The petitioner-Mahesh Kumar is behind the bars since 27.09.2023 and the petitioner-Sandeep Kumar @ Sunny is behind the bars since 03.11.2023. They are not involved in any other case.

6. Custody certificates filed by learned State counsel are taken on record.

7. Per contra, the learned State counsel opposes the prayer made by the petitioner on the ground that there are serious and specific allegations against the petitioners and it would be decided by learned trial Court whether the petitioners can be held liable for an offence under Section 304 IPC. However, she could not controvert the fact that they are not involved in any other case.

8. A two Judge Bench of Hon'ble Supreme Court in '**Satender Kumar Antil v. CBI**' (2022) 10 SCC 51, with respect to prevailing conditions of undertrial prisoner in India has observed:

"6. Jails in India are flooded with undertrial prisoners. The statistics placed before us would indicate that more than 2/3rd of the inmates of the prisons constitute undertrial prisoners. Of this

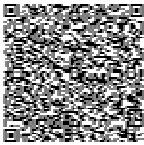
2025:PHHC:003439



category of prisoners, majority may not even be required to be arrested despite registration of a cognizable offence, being charged with offences punishable for seven years or less. They are not only poor and illiterate but also would include women. Thus, there is a culture of offence being inherited by many of them. As observed by this Court, it certainly exhibits the mindset, a vestige of colonial India, on the part of the investigating agency, notwithstanding the fact arrest is a draconian measure resulting in curtailment of liberty, and thus to be used sparingly. In a democracy, there can never be an impression that it is a police State as both are conceptually opposite to each other.”

9. Having heard learned counsel for the parties and after perusing the record of the case, it transpires that the petitioner-Mahesh Kumar is behind the bars since 27.09.2023 and the petitioner-Sandeep Kumar @ Sunny is behind the bars since 03.11.2023. Investigation is complete. The final report under Section 173 Cr.P.C. was presented before the concerned Court. Charges were framed and trial of the case has not made much progress. Out of 38 prosecution witnesses, 03 witnesses have been examined. The culpability, if any, would be determined at the time of trial. No useful purpose shall be served by further detention of the accused/petitioner. Keeping the petitioner in further detention without the prospect of the trial being concluded in the near future, would be violative of his rights under Article 21 of the Constitution of India.

2025:PHHC:003439



10. In view the above, the present petition is allowed. Thus, without commenting upon the merits of the case lest it may prejudice the outcome of the trial, the petitioners- Mahesh Kumar and Sandeep Kumar @ Sunny are ordered to be released on regular bail during trial on their furnishing bail bonds/surety bonds to the satisfaction of Illaqa Magistrate/Trial Court.

11. Nothing observed hereinabove shall be construed as expression of opinion of this Court on merits of the case and the trial Court shall proceed without being prejudiced by observations of this Court.

12. Pending miscellaneous application (s), if any, shall also stand disposed of.

(HARPREET SINGH BRAR)
JUDGE

13.01.2025
anju

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