



IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

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CRM-M-9358-2025 (O&M)
Date of decision: 24.02.2025

Nanne Khan

....Petitioner

Versus

State of Haryana

....Respondent

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Himanshu Garg, Advocate
and Mr. Aditya Sanghi, Advocate
for the petitioner.

Mr. S.K. Panwar, Addl. A.G., Haryana.

HARPREET SINGH BRAR J. (Oral)

1. Prayer in this petition filed under Section 483 of the BNSS, 2023, is for grant of regular bail to the petitioner in FIR No.114 dated 09.04.2024 registered under Sections 201, 302, 34, 120-B, 379 IPC at Police Station Kasola, District Rewari, Haryana.

2. The brief facts of the case are that a telephonic information was received from ERV-566 at Police Station, Kasola to the effect that a dead body was lying on the service road Jaipur to Delhi near Sangwari flyover and on this ASI Shivdarshan alongwith his companions reached at the spot and found that a male body, unknown, aged about 30 years, hands and legs tied with cloths and a cloth tied on neck and abrasions on the body and blistered on skin was dumped near pile cement blocks of the flyover to conceal the dead body. It is alleged that a complaint was moved by Shyampat Singh son of Cheluram to the effect that he has a



workshop in the name of Laksh Industries at NH-48 Jaipur to Delhi Road and on 09.04.2024, at about 10:30 AM, he was going to his workshop on foot passing through Sangwadi flyover on service road Jaipur to Delhi and there he noticed foul smell and saw that a half naked, tied hands and legs and a cloth tied on neck aged about 30 years dead body was lying and some known person had thrown the same after committing murder. He informed the police on 112 number. On the basis of the complaint, the FIR (supra) has been registered.

3. Learned counsel for the petitioner *inter alia* contends that the petitioner has no direct involvement in the murder of deceased and he has been falsely implicated in the case solely on the basis of the disclosure statements of co-accused, which are inadmissible in view of the provision of Sections 25 and 26 of the Evidence Act. Further there is no prior acquaintance between the petitioner and deceased and the prosecution has failed to provide any call details, messages or any other material proving any co-existing relationship. The fundamental ingredients of *mens rea* is missing against the petitioner and in the absence of any motive, the petitioner cannot be held liable. Further, circumstantial evidence relied upon by the prosecution is incomplete and speculative. Further as per the case set up by the prosecution, at the most the petitioner can be held liable for the offence under Section 201 IPC and the petitioner is behind the bars since 18.04. 2024 and he is not involved in any other case; the investigation is complete and the final



report (Annexure P-3) has already been filed before the jurisdictional Court.

4. Learned counsel for the petitioner further submits that till date not even a single prosecution witness has been examined and the trial is likely to take long time in conclusion.

5. *Per contra*, learned State counsel has filed custody certificate today in the Court which is taken on record and he opposes the prayer made by learned counsel for the petitioner on the ground that CDR analysis clearly indicates that the petitioner was present near the crime scene and his presence in the geographical area casts an obligation upon him to explain the circumstances in which he was present near the crime scene and sufficient material is available on record to prove his complicity, however, he could not controvert the fact that the petitioner is in custody since 18.04.2024 and not even a single PW has been examined till date.

6. Having heard learned counsel for the parties and after perusing the record of the case, it transpires that the petitioner is behind the bars from the last 10 months and 04 days. 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 and till date, not even a single prosecution witness has been examined.



7. A two Judge Bench of Hon'ble Supreme Court in ***"Satender Kumar Antil vs. 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 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."

8. Further the culpability, if any, would be determined at the time of trial and as such, no useful purpose will be served by further detention of the petitioner-accused. 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.

9. In view the discussion above, the present petition is allowed. Accordingly, without commenting upon the merits of the case, the petitioner namely Nanne Khan is ordered to be released on regular



bail during pendency of the trial, on his furnishing bail bonds/surety bonds to the satisfaction of Illaqa Magistrate/Trial Court/Duty Magistrate.

10. Nothing observed hereinabove shall be construed to be expression of an opinion by this Court on merits of the case. The learned Court below is directed to proceed with the matter on its own merits, lest it may prejudice the trial.

(HARPREET SINGH BRAR)
JUDGE

24.02.2025
yakub

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