



IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

224

CRM-M-41497-2024

Date of decision: 10.01.2025

Mangal

.....Petitioner

Versus

State of Haryana

.....Respondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present : Mr. Rahul Sindher, Advocate (through VC)
for the petitioner.

Mr. Yuvraj Shandilya, AAG, Haryana.

MANJARI NEHRU KAUL, J. (ORAL)

1. The petitioner is seeking the concession of bail under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023 in case FIR No.589 dated 05.08.2023 under Sections 302, 201, 34 of the IPC registered at Police Station Azad Nagar, Hisar, District Hisar.

2. Learned counsel for the petitioner submits that the case at hand rests on circumstantial evidence and no clear cut motive has come to the fore qua either of the accused including the petitioner to carry out the murder of Dharampal (hereinafter referred to as 'deceased'). While drawing the attention of this Court to the contents of the FIR annexed as Annexure P-1, it has been asserted by the learned counsel that the deceased allegedly left his house on 23.07.2023 on being told by co-accused Kuldeep (his maternal uncle) that there was a job opportunity for him; on the following day, co-accused Kuldeep visited the house of the complainant (father of the deceased) without the deceased and on



asking of the complainant, co-accused Kuldeep informed him that he was not aware about the whereabouts of the deceased. It has been asserted that strangely for days together thereafter neither any missing report was lodged to find out about the the deceased by the parents of the deceased nor any complaint made in the said regard. It has still further been submitted that as per the case of the complainant, co-accused Kuldeep himself confessed to his sister (mother of the deceased) that on account of some dispute over alcohol, the deceased had been assaulted and thereafter done to death, however, yet again the complainant and his wife chose to keep quiet for the next few days before finally lodging the FIR on 05.08.2023. It has been further argued by the learned counsel that a highly improbable and fabricated version has been trumped up by the prosecution which is also supported from the fact that while stepping into the witness box both the complainant as well as his wife did not support the case of the prosecution as a result of which they both were declared hostile. Learned counsel has submitted that other than these two material witnesses no other incriminating evidence was collected by the investigating agency after the alleged murder came to light. Learned counsel, therefore, submits that since the petitioner has now been in custody for almost one year and six months having been arrested on 07.08.2023 and all the material witnesses have not only been examined but have also not supported the case of the prosecution, his further incarceration would serve no useful purpose as six prosecution witnesses still remain to be examined.

3. Per contra, learned State counsel while opposing the prayer



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made by learned counsel for the petitioner, on instructions, has not disputed the custody period of the petitioner and the stage of trial. He, on further instructions, has also not disputed that both the material witnesses i.e. the parents of the deceased have not only been examined but have been declared hostile during trial. Learned State counsel has, however, reiterated the allegations levelled in the FIR in question which stands reproduced hereinunder:-

“Statement of Subhash, son of Shri Mohan Lal, resident of village Bhodiya Hall, near Shani Mandir Railway Station, village Bhatu Kalan, district Fatehchad, age 45 years. Mob. No. 9812886861 I stated that I am a resident of the above mentioned address and work as a laborer. I am illiterate and have three children, two boys and one girl. The eldest is Dharampal, 25 years old, younger is Mangal Singh, and youngest girl is Poonam. Dharampal was unmarried, Mangal Singh and girl Poonam were married. My brother-in-law Kuldeep, son of Shri Ramjilal, resident of village Kirmara, was living with me for about five years. On 23-07-2023, about 12 days ago, when I and my son Dharampal were working in the farm, at about 12.00/12.30 PM, my brother-in-law Kuldeep, son of Shri Ramjilal R/O village Kirmara Hall, near Shani Mandir Railway Station, village Bhattu Kalan District. Fatehabad and Called me on my Mobile no. 9812886861 from Mob. No.7404757440 and asked me to let him to talk to Dharampal, so I gave the phone to Dharampal and after talking to my son Dharampal, my son Dharampal told me that my uncle Kuldeep has offered me that he can pay Rs. 700/- per day along with daily wages and tea and bread and my uncle Kuldeep has just called me to Adampur Mandi. Immediately after my son Dharampal left for Adampur. My brother-in-law Kuldeep had come to my home on next day but my son Dharampal had not come to home, then I asked my brother-in-law Kuldeep, Dharampal had gone to you, why did he not come home, then my brother-in-law Kuldeep said that I do not know where Dharampal is. I searched for my son Dharampal among my relatives and other places, but could not get any information about my son Dharampal. Then on 02.08.2023, my wife Anita told me that her brother Kuldeep had told her that he had killed Dharampal by strangulating after drinking liquor at Panihar Chakka Minar and throw him in Panihar Chakka Minar. Kuldeep



left the place after telling. On 03.08.2023, when I went to Bhattu police station to lodge a complaint, I identified my son Dharampal after seeing his photo in the police station. Today, on 05.08.2023, I have come to Azad Nagar Hisar police station and I have told you the whole situation. You have shown me the photo of dead Dharampal. This photo is of my son Dharampal. My son Dharampal was strangled to death by my brother-in-law Kuldeep, son of Shri Ramjilal Basi, village Kirmara Hall, near Shani Mandir Railway Station, Gaya Bhattu Kalan, District Fatehabad, and thrown into Panihar Chakka Minor at the same place. Now I have given my statement, Listened and understood which is correct. Strictest legal action should be taken against my brother in law Kuldeep. Sd/- Subhash Chand. By Sd/- Ramesh Kumarm, Sub Inspector, PS Azad Nagar, HIsar Dated 05.08.2023.”

4. It has been asserted by the learned State counsel that the petitioner is the brother of the deceased and it could be for reasons but obvious that both the material witnesses, who are parents of the deceased as well as the petitioner, chose to resile from their earlier statements made before the investigating agency.

5. I have heard learned counsel for the parties and perused the material placed on record.

6. The petitioner has been in custody since 07.08.2023. The trial is unlikely to conclude in the near future as six prosecution witnesses still remain to be examined. Since the case at hand rests on circumstantial evidence and both the material witnesses i.e. the parents of the deceased have admittedly been declared hostile, further incarceration of the petitioner in the circumstances would serve no useful purpose as there can now be no risk of the witnesses being intimidated/influenced. In the facts and circumstances as enumerated hereinabove, this Court deems it fit to extend the concession of bail to

the petitioner.

7. Accordingly, the instant petition is allowed. The petitioner be admitted to bail on his furnishing bail/surety bonds to the satisfaction of the Trial Court/Duty Magistrate concerned. However, it is made clear that anything observed hereinabove shall not be construed to be an expression of opinion on the merits of the case.

8. Needless to add, in case the petitioner misuses the concession of bail granted to him, the State would be at liberty to seek cancellation of the same.

10.01.2025

(MANJARI NEHRU KAUL)
JUDGE

Vinay

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