



233

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CRM-M-45564-2023
Date of decision:-11.02.2025

SURENDER @ VICKY

... Petitioner

Versus

STATE OF HARYANA

... Respondent

CORAM:- HON'BLE MR. JUSTICE SANJIV BERRY.

Present:- Mr.Anhul Singh, Advocate for the petitioner.

Mr.Vipul Sherwal, AAG, Haryana.

SANJIV BERRY, J.(ORAL)

Learned State counsel has filed custody certificate dated 10.02.2025, the same is taken on record, copy thereof has been supplied to the counsel opposite.

2. The instant petition has been preferred by the petitioner under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023(BNSS), for grant of regular bail in the following case:-

FIR No.	Dated	Sections	Police Station
669	04.09.2021	346 IPC (302, 201, 182, 193, 195, 506, 34 IPC added later on and Section 346 IPC deleted, 25 Arms Act added later)	Camp Palwal, District Palwal

3. Arguments heard.

4. It is *inter alia* contended by learned counsel for the petitioner that the petitioner is innocent and has been falsely implicated in this case, in fact the petitioner had lodged the missing report of his brother Lokesh @ Lucky whose dead body was found later on by the police in the canal. He contends that the police had wrongly implicated the petitioner in the present



case as accused. He submits that the only clinching evidence against the petitioner had been the statement of his mother Maya Devi who during her testimony as PW-1, (Annexure P-2) had given clean chit to the petitioner. He contends that other witness namely Bhupinder has also been examined as PW-4 (Annexure P-7) who had also not supported the case of the prosecution. He contends that out of 21 witnesses cited by the prosecution 10 witnesses including the material witnesses have already been examined by the prosecution and now Court has summoned 3 more official witnesses under Section 311 Cr.P.C. He submits that those witnesses who have been summoned additionally by the Court are official witnesses having no concern with the occurrence. He submits that the petitioner is not having any criminal antecedents and is in custody since 22.09.2021 and the conclusion of trial will take sufficient long time. Hence prayed for grant of concession of regular bail to the petitioner.

5. *Per contra*, learned State counsel referring to the reply submitted by the State, has strongly opposed the grant of bail to the petitioner by arguing that the petitioner happens to be the accused, who had killed his brother. However, he has not disputed the fact that during course of trial all the material witnesses including the alleged eye witness Maya Devi, mother of the petitioner as well as deceased and also Bhupinder have been examined and they have turned hostile by giving clean chit to the petitioner.

6. After considering the rival contentions and perusing the record, it is observed that initially the FIR was registered by the present petitioner on 02.09.2021 to the effect that his brother Lokesh had been missing since 31.08.2021. During course of investigation on 04.09.2021 dead body of



Lokesh was found in Agroha canal and after postmortem the dead body was handed over to the family. During course of interrogation Maya Devi, mother of the deceased and also of petitioner, stated that on 31.08.2021 there was a fight between Surrender and Lokesh in the house wherein Surrender had killed Lokesh with gun shot. As per her statement she had seen the dead body lying near the door of the room and accused Surrender and Harender standing near by and later Harinder brought the car and both the accused took the dead body in the car while the petitioner piloted the car on his scooty. During interrogation one Bhupinder also stated about the strained relationship of the petitioner with the deceased and the knowledge about the occurrence, accordingly the petitioner was arrested. Co-accused Harinder was granted concession of bail by the learned Additional Sessions Judge, Palwal vide order dated 22.06.2022(Annexure P-11)

7. It is not disputed that out of 21 witnesses cited by the prosecution only 10 witnesses have been examined till date which include the material witness PW-1 Maya Devi and PW-4 Bhupinder. Their deposition in the trial Court has been placed on record as Annexure P-2 and P-7 respectively, it transpires that PW-1 Maya Devi happens to be the mother of the deceased and also of the petitioner. The perusal of her testimony would reveal that she had categorically stated that on 31.08.2021 her son Lucky had gone outside the house and later his dead body was found on outskirts of the village on 04.09.2021, she had categorically stated that the petitioner had not committed the murder of her son and is innocent. Similarly PW-4, Bhupinder has categorically stated that on 04.09.2021 he was told that someone has murdered Lokesh @ Lucky but he does not know who had murdered him. He



submits that he had not visited the house of the deceased nor met his mother and he has no knowledge about the facts of the present case. Both the material witnesses declared hostile after being cross examined at length but nothing substantive cropped up therein so as to support the case of the prosecution. Learned State counsel has not disputed the fact that the material witnesses have not lent any support to the case of the prosecution and only official witnesses remained to be examined. As stated above 14 witnesses still remained to be examined in the trial Court and it will be only after conclusion of trial to ascertain criminal liability, if any of the petitioner, which will take sufficient long time and no purpose would be served by detaining the petitioner any longer.

9. Therefore, in these circumstances, without commenting on the merits of the case, the present petition is allowed. The petitioner is ordered to be released on bail subject to furnishing bail bonds/surety bonds to the satisfaction of learned Trial Court concerned, if not required in any other case; undertaking to regularly appear on each and every date; not to leave the country without prior permission of the Court; and not to tamper with evidence of prosecution in any manner.

10. Any observation made above shall not be construed as opinion of this Court on the merits of the case.

11. Pending application(s) if any shall also stand disposed of.

(SANJIV BERRY)
JUDGE

11.02.2025

Gyan	i)	Whether speaking/reasoned?	Yes/No
	ii)	Whether reportable?	Yes/No