



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-44188-2024
DECIDED ON: 17.02.2025

ASHOK ALIAS BHURA

.....PETITIONER

VERSUS

STATE OF HARYANA

.....RESPONDENT

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Mr. Namit Khurana, Advocate and
Mr. Vikas Dhoulra, Advocate for the petitioner.

Mr. Chetan Sharma, DAG, Haryana.

Mr. Anil Kumar Bhardwaj, Advocate
for the complainant.

SANDEEP MOUDGIL, J (ORAL)

1. **Relief sought**

The jurisdiction of this Court has been invoked under Section 483 of B.N.S.S seeking grant of Regular bail to the petitioner in case FIR No. 274, dated 10.05.2021, registered under Section 302, 202, 201 read with 34 of IPC and section 25, 26 of Arms Act (Annexure P-1) registered at Police Station: Kundli, District Sonapat.

2. Prosecution story setup in the present case as per the version in the FIR as under:-

“It is stated that I am resident of the aforesaid address. I am having cable business. On dated 09.05.2021, in day time, my nephew Amit alias Raja had gone outside, who did not return till night. Today at about 11.00 PM in night, I and my nephew Rahul son of Raj Singh were standing outside in the street waiting for my nephew Amit alias Raja, we saw that Ashok

alias Bhura son of Ved Parkash of our village after taking my nephew Amit on his motorcycle R-15 was roaming in the streets of the village. On dated 10.05.2021 also my nephew did not come at home, then we came to know that a dead body of a young boy has been found lying in the fields of village Pritampura near KMP. When we after going in the Government Hospital, Sonapat we saw, that was found to be of my nephew Amit alias Raja. Then we came to know that Ashok alias Bhura and their accomplices Lal Bahadur son of Dharamraj and Ritik son of Ravinder, resident of Rajiv Nagar, Baiyanpur Khurd, District Sonapat, keeping old revenge, after administering liquor to my nephew on the roof of third floor of Company No. 2004-C HSIIDC Phase-2 Rai near our village, after causing him injuries brutally, after committing his murder, have put the dead body after wrapping the body in a blanket in the fields of Pritampura near KMP. In the Company 2004-C, a Bihari Chowkidar namely, Sharvan also lives. He has also not given intimation of this incident to us. A strict legal action may be taken against all these persons. I have got my statement recorded to you, which is correct.”

3. Contentions

On behalf of the petitioner

Learned counsel for the petitioner contends that the petitioner has been falsely implicated in the present FIR on the basis of concocted story by the investigating agency in connivance with the complainant, wherein the name of the petitioner was arrayed as an accused after delay of 4 days from the day of occurrence which makes the prosecution story doubtful. He further contends that no shadow of evidence is available to show that the petitioner was involved in the incident. It is also urged by the counsel for the petitioner that the alleged recovery of iron darat is planted one and no FSL suggest the said recovery is related to be the weapon used in

the offence. The present petitioner is in custody since 15.05.2021 and is facing undue harassment at the hands of investigating agency, therefore, prays for grant of regular bail.

On behalf of the respondent-State

Learned State counsel has filed custody certificate of the petitioner today in Court, which is taken on record. He prays for dismissal of the grant of bail to the petitioner by submitting status report dated 05.11.2024 by way of an affidavit of Mukesh Kumar, HPS, Assistant Commissioner of Police, Rai, Sonipat, wherein it is contended that the brother of the deceased namely Rahul had seen the petitioner alongwith his brother Amit (deceased) on his motorcycle on 09.05.2021 at about 11:00 p.m. and since then he had not returned home even on 10.05.2021. It has been further contended in the status report that the petitioner along with his accomplices namely Lal Bahadur and Ritik have murdered his brother Amit due to some previous grudge after consuming liquor. It is on the basis of disclosure statement of petitioner that the investigating agency got recovered the iron darat used in committing the crime as well as the motorcycle make R15 bearing No.DL-8SBX-8854 used at the time of occurrence. Further the petitioner and his co-accused Ritik also got demarcated the place of occurrence where they have committed murder of deceased Amit and the place where they had thrown his dead body in the fields

Since, there are direct and specific allegations against the petitioner to have committed the alleged crime, therefore, the State counsel prays for dismissal of grant of regular bail to the petitioner.

4. Heard learned counsel for the parties at length and meticulously gone through the record in hand.

5. **ANALYSIS AND CONCLUSION**

This Court is mindful that, according to the legal mandate rendered by Hon'ble Supreme Court in Criminal Appeal No. 3840 of 2023, titled "***Saumya Churasia versus Directorate of Enforcement, decided on 14.12.2023***", when considering a bail application, the Court is not obligated to meticulously examine the evidence gathered by the Investigating Agency. However, the Court must consider several factors, including the nature of the accusation, the type of evidence collected in support, the severity of the punishment for the alleged offences, the character of the accused, the unique circumstances surrounding the accused, the likelihood of securing the accused's presence during trial, the possibility of witness tampering, and the broader interests of the public or State. In the light of these factors, when assessing a bail application, the Court is required to form a prima facie opinion based on these broad guidelines, without delving into the merits of the evidence, as doing so could potentially prejudice the rights of both the accused and the prosecution.

The Apex Court in case **"Gudikanti Narasimhulu vs. Public Prosecutor, High Court of A.P"; (1978) 1 SCC 240**, has already observed that deprivation of freedom by refusal of bail is not for punitive purposes but for the bifocal interests of justice. It has further been observed that it is rational to enquire into the antecedents of the man who is applying for bail to find out whether he has a bad record, particularly a record which suggests that he is likely to commit serious offences while on bail.

Be that as it may, after considering the submissions made herein above and on perusal of the assertions made in the petition as well, this court is of the firm view that the petitioner had inflicted injuries to deceased with

iron darat and after committing the murder, he along with his co-accused had wrapped his body in the blanket and threw it in the fields with an intention to destroy the evidence. Further all these facts stand admitted by the petitioner in his disclosure statement pursuant to which he got recovered iron darat used in committing the crime as well as the motorcycle used at the time of occurrence. He also got demarcated the place of occurrence where he along with co-accused had committed murder of deceased Amit, therefore, in this manner, the petitioner seems to have actively participated in the commissioning of the offence added with the fact that challan stands presented to Court on 15.07.2021, charges have been framed on 07.11.2022 and out of total 20 prosecution witnesses, 10 witnesses have been examined so far, meaning thereby the conclusion of the trial may not consume much time and if the petitioner is granted bail, there are high chances to tamper with the prosecution evidence which can also hamper the trial.

Hence, in the light of above stated facts and circumstances, this petition is sans merit and is hereby dismissed.

However it is made clear that the observations made herein above shall have no bearing in the mind of the trial court while adjudicating the matter in accordance with law.

(SANDEEP MOUDGIL)
JUDGE

17.02.2025

Poonam Negi

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No