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2026:DHC:1262



05:00pm, that he was getting the truck unloaded at Maan Dharamkanta, Libaspur, and they could meet there. At about 06:30-07:00pm, when he reached the Maan Dharamkanta, Bindeswari was standing with two persons, introduced by the latter as Faruq driver (*the accused/applicant*) and Lalman painter. After speaking with them for about 15-20 minutes, the first informant returned home. Next day (21.02.2016) at 02:30 pm, his maternal uncle called him up to inform that truck of Bindeswari had not reached Noida and that one Pramod had seen truck of Bindeswari being driven towards Etah by some fat person and that phone of Bindeswari was found switched off. After checking with few persons, the first informant and his maternal uncle got to know that even Lalman had not returned at his place of work and was expected to come there at 08:00am next morning. On the next morning, the first informant and his relatives contacted Lalman, who tried to avoid them and thereafter Lalman and the accused/applicant tried to run away, so feeling suspicious, the first informant and his relatives apprehended Lalman and the accused/applicant and called police. Thereafter, as per prosecution case, the accused/applicant and Lalman got recovered the dead body of Bindeswari and stated that they had sold away the truck.

4. In order to connect the accused/applicant with killing of Bindeswari, the circumstances relied upon by the prosecution side are the evidence of last seen and the evidence of recovery of the truck and its Registration Certificate etc.

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5. Learned counsel for accused/applicant submits that he is in custody since 22.02.2016 and till date, prosecution evidence has not been concluded. It is contended that the chain of circumstances relied upon by prosecution does not conclusively establish complicity of the accused/applicant.

6. Learned APP strongly opposes the bail application and submits that PW Pramod is yet to be examined, so the accused/applicant be not released on bail. It is also contended that the last seen evidence coupled with the recovery of the truck and its documents as well as clothes of the deceased clearly establish complicity of the accused/applicant.

7. So far as the pending testimony of Pramod is concerned, it is nobody's case that Pramod had identified the deceased or the accused/applicant as driver of the truck. Even as per prosecution case, Pramod would depose only having seen one fat person driving the truck. So, his testimony would not bring any change.

8. As regards the alleged recovery of truck, the disclosure statement of the accused/applicant is admissible only to the extent of his knowledge about the place where the truck was parked. As regards the documents of truck, one also wonders as to why the accused/applicant having sold away the truck would not deliver those documents to the buyer or destroy the same.

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9. So far as the evidence of last seen is concerned, even according to prosecution, the deceased was lastly seen with the accused/applicant at about 07:00pm on 20.02.2016 and the dead body was recovered on 22.02.2016 at about 08:00pm. It is nobody's case that after having been seen for last time, the deceased was confined to some place.

10. Of course, on above aspects trial court shall carry out independent final deliberations after concluding the trial but for present purposes, further incarceration of the accused/applicant would not be proper.

11. Therefore, the bail application is allowed and accused/applicant is directed to be released on bail subject to his furnishing a personal bond in the sum of Rs.10,000/- with one surety in the like amount to the satisfaction of the Trial Court.

12. A copy of this order be immediately transmitted to the concerned Jail Superintendent for informing the accused/applicant.

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**GIRISH KATHPALIA
(JUDGE)**

FEBRUARY 13, 2026/ry

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