

2025:PHHC:057779



**IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH**

228

CRM-M-65009-2024

Date of decision: May 01, 2025

INDERSAIN @ INDER

.....Petitioner

Versus

STATE OF HARYANA

.....Respondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present: Mr. Mahendra Singh Tawatia, Advocate
for the petitioner.

Mr. Rajat Gautam, Addl. A.G., Haryana.

MANJARI NEHRU KAUL, J.

1. The instant petition is the second petition filed under Section 439 Cr.P.C. for grant of regular bail to the petitioner in case FIR No.140 dated 01.10.2022 under Sections 302, 201, 34 of the IPC, 1860, registered at Police Station GRP Faridabad, District GRP Ambala (Annexure P-1).

2. Learned counsel for the petitioner submits that the petitioner has been in custody since 20.10.2022. The case against him hinges solely on circumstantial evidence. It is submitted that the dead body of Mahipal (hereinafter referred to as 'the deceased') was recovered by the police near the railway tracks. The hands and mouth of the deceased were tied, his face defaced, and an FIR was then lodged against unknown persons. Subsequently, the deceased was identified by his brother.

3. During the course of investigation, one co-accused Ritu (who has since been enlarged on bail) was arrested. Allegedly, during her interrogation, the name of the petitioner surfaced as one of the perpetrators.



It has been urged that as per the case of the prosecution, the petitioner along with his maternal uncle Lal Prabhakar @ Raja and Ritu, conspired and executed the murder.

4. It is contended by learned counsel for the petitioner that the motive imputed by the prosecution is highly improbable and artificial. According to the prosecution, co-accused Raja had solemnized marriage with accused Ritu about 10-11 years ago, but after 5- 6 years, Ritu married the deceased, which allegedly cause co-accused Raja to harbour animosity towards the deceased. As per plan, on 30.09.2022, co-accused Ritu called the deceased to her rented premises under the pretext of engaging in physical relations, whereupon co-accused Raja assaulted and slit the throat of the deceased. Thereafter, allegedly the petitioner, along with both the co-accused, tied the hands and neck of the deceased, transported his body on a motorcycle and dumped it by the railway tracks. Allegedly, the petitioner and co-accused Raja struck the face of the deceased with a large stone to ensure his death. The said stone was recovered from the spot and motorcycle used in the commission of the crime was also allegedly recovered at the instance of the petitioner.

5. It has been further argued that the prosecution has placed reliance on the mobile phone location records and allegedly, the mobile phones of all the three accused including the petitioner were traced to the same location as the deceased at the relevant time. Further, the blood stains



found on the recovered huge stone matched the blood group of the deceased (Group B), as per the FSL Report (Annexure R-1).

6. Learned counsel for the petitioner, however, submits that there is no direct evidence connecting the petitioner with the commission of the offence. There is no witness of last seen, no independent recovery of any weapon of offence from the petitioner, and the only recovery is of a stone with blood stains found near the body, which is not specifically attributable to the petitioner. It is further pointed out that no fingerprints were lifted from the stone, and none of the forensic findings conclusively link the petitioner to the murder in question.

7. It is also submitted by learned counsel for the petitioner that both the material witnesses namely PW Renu and PW Manoj (brother of the deceased) have already been examined, and only 2 out of 28 prosecution witnesses have been examined to date. The trial is, therefore, likely to take considerable time to conclude. A prayer has therefore been made for enlarging the petitioner on bail.

8. *Per contra*, learned State counsel, on instructions, has opposed the prayer and submissions made by the counsel opposite. Learned State counsel, while drawing the attention of this Court to the contents of the reply by way of affidavit of the Deputy Superintendent of Police, Railways, Faridabad, which has been filed in the Court today, has submitted that the petitioner along with the co-accused had a common intention and acted in



concert to eliminate the deceased. It has been further argued that the disclosure statement of the petitioner led to the recovery of the motorcycle allegedly used in the transportation of the dead body. It has also been submitted that the mobile location evidence corroborates the presence of all accused at the scene of the crime. However, on specific queries from the Court, it is conceded by learned State counsel, on instructions, that no fingerprints were recovered from the stone allegedly used to bludgeon the deceased due to its rough surface; other than mobile phone location data, no other incriminating evidence has been collected specifically linking the petitioner to the murder; there is no witness of last seen with respect to the petitioner; the petitioner has no previous criminal antecedents.

9. Having considered the submissions made by the learned counsel for the parties, the nature of evidence on record and the stage of trial, this Court deems it fit to admit the petitioner on bail as his further incarceration would serve no useful purpose, moreso when both the material witnesses, even as per the learned State counsel, have been examined. The case of the prosecution is entirely based on circumstantial evidence, and the link between the petitioner and the commission of the crime is tenuous at best, resting primarily on mobile location data and alleged disclosure-based recovery. The motive allegedly attributed to the petitioner is neither clear nor compelling, and no direct evidence such as eyewitness testimony or forensic



findings like fingerprints, has been brought to the notice of this Court during the hearing of the instant petition.

10. Accordingly, the instant petition is allowed, and the petitioner be admitted to bail on his furnishing bail/surety bonds to the satisfaction of the Trial Court/Duty Magistrate concerned.

11. 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.

May 01, 2025
Jaspreet Kaur

(MANJARI NEHRU KAUL)
JUDGE

Whether speaking/reasoned : *Yes/No*

Whether reportable : *Yes/No*