

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

2025:PHHC:081779



315

CRM-M-7938-2025

Date of decision:08.07.2025

Kamta Parsad @ Kamta Prasad

... Petitioner

Vs.

State of Haryana

... Respondent

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present: Mr. Kanwaljeet Singh, Advocate for the petitioner.

Mr. Neeraj Poswal, AAG, Haryana.

...

Manisha Batra, J. (Oral).

1. The present petition has been filed under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (for short 'BNSS') by the petitioner seeking grant of regular bail in case bearing FIR No.592 dated 26.06.2023 registered under Sections 302, 34 IPC (Section 201 IPC was added and Section 34 IPC deleted lateron), at Police Station HTM Hisar, District Hisar.

2. As per allegations, on 24.06.2023 on receipt of an information regarding death of victim Raj Kapoor son of the present petitioner under unnatural circumstances, a police party reached at the spot and found the dead body of the victim to be lying in his house. The petitioner, who is father of the victim recorded his statement to the effect that the victim used to have fits of epilepsy. On the night of 22.06.2023, an altercation had taken

place between his neighbourers, Sanjay and Nanhi Devi and the victim and Nanhi Devi had struck a blow on the head of Raj Kapoor. He also recorded that Nanhi Devi and her son had caught hold of neck of the victim and had caused injuries to him and he had got his son treated from a doctor. He also disclosed that a compromise was effected between them but on the previous night his son suffered from attack of epilepsy and then had become unconscious. He stated that he could tell the reason of death of the victim. Inquest proceedings and post-mortem examination of dead body was conducted and it was revealed that the victim died due to ligature strangulation. A case under Section 302 read with Section 34 IPC was registered. Investigation proceedings were initiated. During investigation Maan Singh brother-in-law of the petitioner recorded a statement that the petitioner had suffered an extra-judicial confession before him on 27.06.2023 to the effect that he had strangled the victim by using a plastic string on the fateful night and implicated Sanjay and Nanhi Devi to save himself.

3. On the basis of statement of Maan Singh, the petitioner was nominated as an accused and was arrested on the same day. He was interrogated and suffered disclosure admitting his involvement in the murder of his son and got recovered a plastic rope used in the crime. Offence under Section 201 IPC was added. Investigation now stands concluded and the petitioner is facing trial for commission of offences punishable under Sections 302, 201 IPC.

4. It is argued by learned counsel for the petitioner that he has been falsely implicated in this case. There was no eye witness to the murder

of the victim. Case is based on circumstantial evidence and there is no circumstance to connect him with the crime. Witness Maan Singh has not supported the prosecution version. Even Krishan Kumar, who was a material witness has turned hostile. There is no direct incriminating evidence against him on record. He is in custody since 27.06.2023. His further detention would not serve useful purpose. It is, therefore, urged that he deserves to be extended the benefit of bail.

5. Status report has been filed. It is argued by learned State counsel that there are serious allegations against the petitioner. The circumstances point out towards the guilt of the accused in no uncertain terms. The material evidence is yet to be produced. The fact that two witnesses have not supported the prosecution version does not prove innocence of the victim. The case is based on circumstantial and scientific evidence which is yet to come on record. There are chances of the petitioner's absconding if extended benefit of bail. It is, therefore, argued that the petition does not deserve to be allowed.

6. This Court has heard the rival submissions made by learned counsel for the parties carefully.

7. The petitioner is alleged to have caused the homicidal death of his son on the night of 23/24.06.2023 by strangulating him. The rope used in the occurrence is alleged to have been recovered at his instance. He has placed on record Annexures P-2 and P-3 copies of sworn depositions of PW2 Krishan Kumar landlord of the petitioner and PW3 Maan Singh. Both of them have deposed that the petitioner was not involved in the murder of the victim admittedly and undisputedly. They were not the eye witnesses to

the occurrence. The material evidence is yet to be produced. The case is based on circumstantial evidence. The dead body of the victim was recovered from the same house wherein he resided with the petitioner. As such, the petitioner is presumed to be having knowledge of the fact as to how the homicidal death of the victim had occurred and the burden of proving that fact is upon him as per Section 109 of Bharatiya Sakshya Adhinyam, 2023 (which is pari-materia with Section 106 of the Indian Evidence Act, 1872). At this stage, there is nothing to show that the petitioner has discharged such burden. The allegations against him are quite grave in nature. It is well settled proposition of law that gravity of the crime is prime consideration for allowing or denying benefit of bail to an accused.

8. Keeping in view the nature of the allegations as levelled against the petitioner, the quantum of sentence which the conviction may entail and the attendant facts and circumstances but without meaning to make any comment on the merits of the case, lest they prejudice either of the parties, this Court is of the considered opinion that the petitioner does not deserve to extended the benefit of bail at this stage. Accordingly, the present petition is dismissed.

9. Since the main petition has been dismissed, pending application, if any, is rendered infructuous.

(MANISHA BATRA)
JUDGE

08.07.2025

harjeet

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