

IN THE HIGH COURT OF PUNJAB AND HARYANA,
AT CHANDIGARH

206

CRM-M-9755 of 2022

Date of decision : 18.04.2022

Vinod Shah

... Petitioner

Versus

State of Punjab

.. Respondent

CORAM : HON'BLE MRS.JUSTICE MANJARI NEHRU KAUL

Present : Ms.Pratula Sethi, Advocate
for the petitioner.
Ms.Ishneet Kaur Pannu, Addl.AG, Punjab

Manjari Nehru Kaul, J.

This is second petition filed under Section 439 Cr.P.C for grant of bail in case FIR No.37, dated 10.03.2019 (Annexure P-1) under Sections 302, 376-A, 363 IPC and Sections 3, 4 and 8 of POCSO Act, 2012 registered at Police Station Doraha.

On a pointed query put on the counsel for the petitioner what was the material change in the circumstances subsequent to the withdrawal of the previous petition under Section 439 Cr.P.C. on 15th September 2021, she submitted that the petitioner had now been in custody for more than 03 years.

Learned counsel *inter alia* contends that the petitioner has been falsely implicated in the case in hand which is evident from the fact that the FSL report did not corroborate the factum of the person of the victim having been violated by any one much less the petitioner, just before her murder. She further submits that PW-1 complainant while stepping into the witness box made material improvements during her deposition, which went a long way in creating a serious dent in the case of the prosecution and rather lent

credence to the false implication of the petitioner. Learned counsel has further submitted that the prosecution evidence has not yet concluded and there is also no likelihood of it concluding in the near future, hence, the petitioner be extended the concession of bail.

Per contra, learned State counsel while opposing the prayer and submissions made by the counsel opposite, has drawn the attention of this Court to the allegations leveled against the petitioner in the FIR in question. She submits that the petitioner is none other than the first cousin of the deceased victim. On the fateful day, the petitioner on the pretext of buying candies for his cousin i.e. deceased-victim lured her outside her house in the presence of her mother i.e. the complainant. Since the victim did not return home for a long time, the complainant-mother suspected that something was amiss. Soon thereafter, the dead-body of the victim was recovered from a godown, where the petitioner himself was employed. She further submits that when the dead-body of the victim was recovered, there were no clothes on her, her teeth were broken and there were injury marks all over her person including fractures which left no manner of doubt that the victim had been brutally done to death after having been sexually assaulted. She, on instructions from ASI-Jagga Ram, P.S. Doraha, submits that out of 19 prosecution witnesses cited, only 07 remain to be examined. She has also further apprised the Court that the complainant while stepping into witness box as PW-1 supported the case of the prosecution in its entirety and reiterated that it was the petitioner who had lured her daughter, aged 7-1/2 yrs, on the pretext of buying candies.

I have heard learned counsel for the parties and perused the relevant material on record.

Prima facie, there are very serious and specific allegations leveled against the petitioner of having raped a 7-1/2 years old girl and after having committed the heinous offence of rape, brutally done her to death. No doubt the petitioner has been in custody for almost 3 years, however, this Court cannot lose sight of the fact that on account of the pandemic, the court below had been functioning in a restricted mode. Still further, since only 07 prosecution witnesses remain to be examined, the trial is not going to take much time to conclude.

In the facts and circumstances as enumerated here-in-above, this Court is of the considered opinion that the petitioner does not deserve the concession of bail.

Dismissed.

However, nothing contained herein above, shall be taken to be an expression of opinion on merits of the case.

18.04.2022

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**(MANJARI NEHRU KAUL)
JUDGE**

Whether speaking/reasoned	:	Yes/No
Whether Reportable	:	Yes/No