

210 **IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CRM-M-10933-2022
Decided on : 05.04.2022

Kuldeep @ Ram Gopal

..... Petitioner

Versus

State of Haryana

..... Respondent

CORAM : HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present : Mr. V.K.Jindal, Sr. Advocate with
 Mr. Gopal Soni, Advocate
 for the petitioner.

Mr. Rohit Arya, DAG, Haryana.

Manjari Nehru Kaul, J.(Oral)

This is the second petition filed under Section 439 Cr.PC for grant of regular bail to the petitioner in case FIR No.55 dated 14.02.2019 under Sections 304-B, 34, 498-A IPC registered at Police Station Bhuna District Fatehabad.

On a pointed query put to learned senior counsel for the petitioner as to what was the change in the circumstances subsequent to the withdrawal of previous petition on 18.11.2021, he submitted that despite the case having been adjourned on numerous dates for prosecution evidence, none of the prosecution witnesses had been appearing before the trial Court to get their evidence recorded. He further submitted that the petitioner has been in custody since 22.06.2021 and not even a single prosecution witness stood examined and hence, there was no likelihood of the trial concluding in the near future.

Coming to the merits of the case, learned senior counsel submitted that it was a matter of record that after the deceased consumed poison, the investigating agency had nominated only her husband i.e. son of the petitioner, as an accused on the basis of material collected that it was inter se a dispute between the husband and wife and declared all others innocent. It was submitted that it was yet again a matter of record that after the deceased left her matrimonial home, it was two weeks later, she consumed poison and committed suicide in her parental home. Still further, it was submitted that later on a supplementary challan was presented showing the involvement of the petitioner in the crime in question, on the basis of some CD purportedly containing the voice of the petitioner. It was also submitted that even there was no FSL report forthcoming as to what were the contents of the CD to link the petitioner with the crime in question. Learned counsel submitted that the petitioner had no criminal antecedents and hence, he be extended the concession of bail.

Per contra, learned State counsel while opposing the prayer made by the counsel opposite has not been able to controvert the factum of the deceased ending her life in her parental home and also the petitioner not having been nominated as an accused at the time of filing the first Final report under Section 173 Cr.PC before the trial Court. Learned State counsel submitted that later on the petitioner was nominated as an accused on the basis of a CD containing his voice, which hinted at his involvement in the crime in question. On a pointed query put to learned State counsel as to what were the contents of the CD and what was the report of FSL, he submitted that it was still awaited. He, on instructions admitted that the

case had been adjourned by the trial Court on various dates because of the non-appearance of the prosecution witnesses.

Heard learned counsel for the parties and perused the relevant material on record.

The petitioner has been in custody since 22.06.2021 and there is no likelihood of the trial concluding in the near future. In the facts and circumstances as enumerated hereinabove and more so when the petitioner was found innocent initially by the investigating agency and even the report of the FSL qua the CD is still awaited, this Court deems it fit to extend the concession of bail to the petitioner. Accordingly, the present petition is allowed. The petitioner be admitted on bail to the satisfaction to the trial Court/Duty Magistrate concerned. 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.

(MANJARI NEHRU KAUL)
JUDGE

05.04.2022

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