

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

217

**CRM-M-18241-2022
Date of decision: 09.05.2022**

Mona

.....Petitioner

Versus

State of Haryana

.....Respondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present : Mr. Aman Pal, Advocate
for the petitioner.

Mr. Rohit Arya, DAG, Haryana.

MANJARI NEHRU KAUL, J. (ORAL)

This is the second petition filed under Section 439 of the Code of Criminal Procedure for grant of regular bail to the petitioner in case FIR No.145 dated 13.07.2020 lodged under Section 67-A of the Information Technology Act and Sections 306 and 354-C IPC (Sections 120-B and 201 IPC added lateron) registered at Police Station Julana, District Jind.

At the outset, learned counsel for the petitioner submits that in the head note of the petition 'Second petition under Section 439 of the Code of Criminal Procedure' has been mentioned inadvertently whereas this is the third petition filed by the petitioner under Section 439 of the Code of Criminal Procedure.

On his oral request, the said mistake is ordered to be corrected.

On a query put to the learned counsel for the petitioner as to what was the material change in circumstances subsequent to the withdrawal of the previous petition filed by the petitioner on

06.01.2022, he submits that the complainant, who also happens to be the brother of the deceased, has since been examined and he had failed to support the case of the prosecution during trial.

Learned counsel for the petitioner submits that a diary containing the suicide note wherein the deceased had levelled allegations against the accused including the petitioner was sent to the FSL, however, as per FSL report, the writing on the suicide note did not match with that of the deceased. Hence, the factum of the complainant turning hostile coupled with the report of the FSL lent credence to the petitioner's false implication in the case in hand. Learned counsel submits that since 12 prosecution witnesses remain to be examined, the trial would take considerable time to conclude and thus his further incarceration would not serve any useful purpose.

Per contra, learned State counsel while opposing the prayer on instructions has conceded that the sole material witness i.e. brother of the deceased, who is also the complainant, while stepping into the witness box did not support the case of the prosecution as a result of which he was declared hostile. He has also not been able to controvert the submissions made by the counsel opposite qua the findings recorded by the FSL (report annexed as Annexure P-6) wherein it has been categorically reported that the handwriting of the deceased did not match with the writing in the suicide note (diary) sent to it.

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

The petitioner has been in custody since 17.07.2020. The trial is unlikely to conclude in the near future. The sole material witness

i.e. the complainant stands examined and did not support the case of the prosecution. This Court thus, in the facts and circumstances as enumerated hereinabove, deems it fit to extend the concession of bail to the petitioner.

Accordingly, the instant petition is allowed. The petitioner be admitted to bail to the satisfaction of 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.

09.05.2022

Vinay

(MANJARI NEHRU KAUL)
JUDGE

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