

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

(203)

CRM-M-1533-2023

Date of decision: - 17.03.2023

Rajesh @ Vicky**....Petitioner****Versus****State of Haryana****.....Respondent****CORAM : HON'BLE MR. JUSTICE VIKAS BAHL**

Present:- Mr. Ajay Singh Ghangas, Advocate, for the petitioner.

Ms. Upasana Dhawan, AAG, Haryana.

VIKAS BAHL, J. (ORAL)

This is the third petition under Section 439 Cr.P.C. to grant regular bail to the petitioner in FIR No.147 dated 21.06.2021 under Sections 302, 328 and 34 IPC (Section 201 IPC has been added later on), registered at Police Station Lakhan Majra, District Rohtak.

Learned counsel for the petitioner has submitted that the petitioner has been in custody since 22.06.2021 and out of total 14 prosecution witnesses, only 2 witnesses have been examined, thus, the trial is likely to take time. It is further submitted that the earlier bail application filed by the petitioner was withdrawn at that stage on 18.07.2022 and after the said withdrawal, the star witness in the present case, which is the mother of the deceased and is the complainant has been examined as PW-2 and she has specifically stated in her examination-in-chief that she does not know as to how her daughter has died, but she had received a call that her daughter had consumed some poisonous substance and thus, the said witness had been declared hostile. It is also submitted

that there is no eye witness in the present case and the deceased was married to the petitioner for a period of 12 years and there is no complaint given by the deceased against the present petitioner of any maltreatment and there was no dispute between the petitioner and his deceased wife. It is stated that the petitioner and deceased wife had two children, who were aged 5 year and 10 year at that time and the said children were present in the house at the time of the incident, but the children have not been made witnesses in the case. It is further stated that in the FIR even the petitioner's mother and sister were made accused, but during the course of investigation, they have been found to be innocent and thus, the version given in the FIR has been found to be partially incorrect as per the investigation. It is submitted that there is no injury mark on the deceased and thus, the question of forcibly administration of poison to the deceased does not arise. It is further submitted that the petitioner is not involved in any other case.

Learned State counsel, on the other hand, has opposed the present petition for regular bail and has referred to paragraphs 5 and 6 of the affidavit filed by the State, as per which, it has been stated that the deceased had died on account of "Aluminum phosphide" being administered to her and that it is the petitioner who had forcibly given poison to her.

Learned counsel for the petitioner has reiterated the fact that there is nothing on record to suggest that the deceased had been administered poison forcibly.

Keeping in view the above-said facts and circumstances,

more so, the fact that the petitioner has been in custody since 22.06.2021 and out of total 14 prosecution witnesses, only 2 witnesses have been examined and the star witness in the FIR, which is the complainant Bimla Devi, who is the mother of the deceased, has been examined as PW-2 and she has stated that she does not know as to how the deceased died and has been declared hostile and also the fact that there is no eye witness in the present case and even the natural witnesses, which are the children of the petitioner and deceased, have not been made witnesses in the present case and also the fact that there is no injury suffered by the deceased and that the petitioner is not involved in any other case, the present petition is allowed and the petitioner is ordered to be released on bail on his furnishing bail / surety bonds to the satisfaction of the concerned trial Court/ Duty Magistrate and subject to him not being required in any other case.

However, it is made clear that in case, any act is done by the petitioner to threaten or influence the complainant or any of the witnesses, then it would be open to the State to move an application for cancellation of bail granted to the petitioner.

Nothing stated above shall be construed as a final expression of opinion on the merits of the case and the trial would proceed independently of the observations made in the present case which are only for the purpose of adjudicating the present bail petition.

March 17, 2023
naresh.k

(VIKAS BAHL)
JUDGE

Whether reasoned/speaking?
Whether reportable?

Yes/No
Yes/No