

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

(204)

CRM-M-8649-2022
Date of decision:- 13.03.2023

Yogesh**... Petitioner****Versus****State of Haryana****... Respondent****CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL**

Present:- Mr. Ravi Kumar Girdhwal, Advocate
for the petitioner.

Mr. R.K.S.Brar, Addl. A.G., Haryana.
for State-respondent.

SUVIR SEHGAL, J. (ORAL)

This is the third petition filed under Section 439 of the Code of Criminal Procedure, 1973 seeking grant of post-arrest bail in case FIR No.623 dated 02.12.2012, registered for offences under Sections 201, 302 and 34 of the Indian Penal Code, 1860, at Police Station Bhiwani Sadar, District Bhiwani, Annexure P-1.

Case of the prosecution is that FIR, Annexure P-1, has been registered on the statement of a railway employee after he found a charred dead body of a male on a railway track.

Counsel for the petitioner contends that after the registration of the FIR, investigation was conducted, but as the body remained unidentified, it was cremated by the municipal authorities. He submits that during the course of investigation of FIR No.247 dated 01.06.2020, petitioner, his deceased father and Sugandha @ Madhu @ Pooja have been

named as accused. Counsel submits that neither the petitioner has been named in the FIR nor any recovery has been effected from him. He submits that there is a delay of eight years in proceeding with the matter. By referring to order dated 24.12.2021, Annexure P-15, counsel for the petitioner submits that co-accused, Pooja @ Sugandha @ Madhu, has been released on bail. He submits that the material prosecution witnesses have been examined and after the dismissal of the previous bail petition, testimony of deceased's wife has been recorded, but the prosecution has not been able to produce any incriminating material against the petitioner. He submits that the petitioner, who is in custody since 31.07.2020, deserves to be enlarged on bail as the trial is likely to take time to conclude.

Per contra, learned State counsel, upon instructions from SI, Bhushan, has opposed the petition by submitting that the petitioner has been found to be involved in the murder of Gajraj on the basis of an extra judicial confession made by him to a relative. State counsel could not deny the fact that no recovery has been effected from the petitioner. As per his instructions, twenty out of fifty one prosecution witnesses have been examined the trial is fixed for 29.03.2023 for evidence of the remaining witnesses.

Having heard counsel for the parties, but without examining the arguments on merits, this Court is prima facie of the view that the role ascribed to the petitioner in the crime would remain controvertible before the Trial Court. Petitioner, who is in custody for the last more than thirty one months, would be entitled to be released on bail as vital prosecution witnesses have been examined and there is a remote possibility of an early conclusion of the trial.

Petition is allowed.

Petitioner is ordered to be released on bail on furnishing adequate bail/surety bonds to the satisfaction of the Area Magistrate/Duty Magistrate concerned.

It is clarified that nothing said hereinabove shall be construed to be an expression of opinion on the merits of the case.

(SUVIR SEHGAL)
JUDGE

13.03.2023
Kamal

Whether Speaking/Reasoned	Yes/No
Whether Reportable	Yes/No