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

207

CRM-M-12916-2021

Date of decision : 11.10.2023

Kuljinder Singh**..... Petitioner**

versus

State of Haryana**..... Respondent****CORAM : HON'BLE MR. JUSTICE PANKAJ JAIN**

Present: Mr. Mohit Garg, Advocate
for the petitioner.

Mr. Gaurav Bansal, DAG, Haryana.

PANKAJ JAIN, J. (Oral)

1. Present petition has been filed under Section 439 Cr.P.C. for grant of regular bail to the petitioner in case bearing FIR No.180 dated 30.03.2020, registered for the offence punishable under Section 346 of IPC (Sections 302, 201 and 120-B of IPC added later on) at Police Station Pehowa, District Kurukshetra.

2. The petitioner was ordered to be admitted on interim bail vide order dated 04.03.2022 observing as under:-

“On 28.02.2022 the following order had been
recorded by this court:-

*“Vide this application, advancement of
the date of hearing in the accompanying
petition is sought, on the ground that the
material witnesses have turned hostile and
further, the marriage of the petitioner's sister
is fixed for 07.03.2022.*

Notice in the application.

*Mr. Neeraj Poswal, AAG, Haryana,
accepts notice at the asking of the Court on
behalf of the respondent-State. He would*

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*take instructions on both issues.**Adjourned to 04.03.2022.**To be shown in the urgent motion list.”*

Today, learned counsel for the applicant-petitioner further points to the testimony of the complainant in the FIR, i.e. the father of the deceased (PW-11), a copy of which has also been annexed with this application, from which it is seen that he has been declared to be hostile, he specifically having stated that the petitioner had not killed his son.

That being so, the petitioner is ordered to be admitted to interim bail upon his furnishing adequate bail bonds and surety bonds to the satisfaction of the learned Chief Judicial Magistrate/Duty Magistrate concerned, till the next date of hearing in the accompanying petition, i.e. 27.04.2022.

Learned State counsel would take instructions as to whether any material witnesses are still to be examined.

The application is disposed of with the aforesaid directions.”

3. Today, counsel for the petitioner has relied upon order dated 16.05.2023 passed in **CRM-M-17141-2021**, wherein co-accused Pinky has been ordered to be admitted on bail, observing as under:-

“CRM-12126-2021 & CRM-3785-2022, CRM-3787-2022

Applications are allowed as prayed for.

Depositions of Om Parkash PW-11 and Radhey Shyam PW-12, and are taken on record as Annexures P-4 & P-5 respectively, subject to all just exceptions.

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CRM-M-17141-2021

1. The jurisdiction of this Court under Section 439 Cr.P.C., has been invoked for the grant of regular bail to the petitioner in FIR No. 180, dated 30.03.2020, under Section 346 IPC (Sections 302, 201 and 120-B of IPC added later on), registered at Police Station Pehowa, District Kurukshetra.
2. The contention raised by the learned counsel for the petitioner is that it is a case of circumstantial evidence and on that basis, prosecution has proceeded in the trial and the alleged eye witnesses namely Om Parkash PW-11 and Radhey Shyam PW-12 have already turned hostile.
3. Learned State counsel has filed the custody certificate of the petitioner, which is taken on record. According to the custody certificate, the petitioner is behind the bars for the last 1 year, 4 months and 17 days, who is not involved in any other case of any nature whatsoever, which shows that she is not an habitual offender.
4. Learned State counsel submits that out of 28 witnesses, 25 have been examined and trial is at the fag end. He has also not disputed the assertion made by the counsel for the petitioner that two eye witnesses i.e., PW-11 and PW-12 have already turned hostile.
5. Considering the fact that the alleged eye witnesses have already turned hostile during the course of trial and the case is of circumstantial evidence only, this Court is of the considered view that there is a strong probability, which may result into acquittal. Hence, no useful purpose would be served by keeping the petitioner behind the bars, which would also violate her right to life and

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speedy trial as enshrined under Article 21 of the Constitution of India.

7. Accordingly, the petitioner is directed to be released on regular bail on his furnishing bail and surety bonds to the satisfaction of the trial Court/Duty Magistrate, concerned.

8. The petition is allowed in the aforesaid terms.

9. However, it is made clear that anything stated hereinabove shall not be construed as an expression of opinion on the merits of the case.”

4. Counsel for the State does not dispute the aforesaid observations made by counsel for the petitioner.

5. Keeping in view of above and by granting him parity alongwith co-accused Pinky who is facing almost similar allegations, the present petition is allowed. Petitioner is ordered to be released on regular bail on his furnishing bail/surety bonds to the satisfaction of the Ld. Trial Court/Duty Magistrate, concerned.

6. Needless to say nothing recorded herein shall be construed to be an expression of an opinion on the merits of the case.

(PANKAJ JAIN)
JUDGE

11.10.2023

Dinesh

Whether speaking/reasoned : Yes

Whether Reportable : No