

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

222

CRM-M-12418-2023

Date of decision: 21.08.2023

Rajesh

.....Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present : Mr. Ashok Giri, Advocate
for the petitioner.

Mr. I.P.S. Sabharwal, DAG, Punjab.

MANJARI NEHRU KAUL, J. (ORAL)

1. The petitioner is seeking the concession of bail under Section 439 of the Cr.P.C. in case FIR No.104 dated 18.07.2020 under Sections 302/201/120-B of the IPC registered at Police Station Division No.1, District Commissionerate Jalandhar.

2. Status report by way of affidavit of Daman Bir Singh (PPS), Assistant Commissioner of Police, North, Jalandhar, has been filed in the Court today which is taken on record subject to all just exceptions. A copy of the same has been supplied to the counsel opposite.

3. Learned counsel for the petitioner submits that the petitioner has been in custody since 19.07.2020 for allegedly committing the murder of Manish Kumar on 17.07.2020. Learned counsel has argued that it is a case resting on circumstantial evidence, however, there was no cogent evidence collected by the investigating agency which could in any manner link the petitioner with the aforesaid

murder. It has been further submitted that though the motive to commit the crime in question was spelt out by the mother of deceased Manish Kumar qua there being some business rivalry between her deceased son and the petitioner, however, it was a matter of record that when the mother of the deceased Gurbaksh Kaur stepped into the witness box as PW3 she did not support the case of the prosecution as a result of which she was declared hostile. In support, learned counsel has drawn the attention of this Court to the deposition of PW3 Gurbaksh Kaur which has been annexed as Annexure P-1. It has further been submitted that other than the mother of the deceased there was no other material witness in the case in hand and hence, further incarceration of the petitioner in the facts and circumstances, would serve no useful purpose as there could be no possibility of the petitioner trying to tamper with evidence much less of influencing the prosecution witnesses to depose in his favour.

4. Per contra, learned State counsel while opposing the prayer made by learned counsel for the petitioner, on instructions, has not been able to dispute that the case in hand hinges on circumstantial evidence and the motive to commit the crime in question was allegedly some business rivalry between the deceased and the petitioner. However, he has conceded that the sole material witness in the case in hand i.e. PW3 Gurbaksh Kaur (mother of the deceased) while stepping into the witness box was declared hostile as she did not support the case of the prosecution much less qua the motive to commit the crime. Learned State counsel has apprised the Court that as many as 31 prosecution witnesses have been cited and only 08 prosecution witnesses stand

examined till date.

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

6. The petitioner has been in custody since 19.07.2020. The sole material witness i.e. PW3 Gurbaksh Kaur did not support the case of the prosecution while stepping into the witness box as a result of which she was declared hostile. No other material witness remains to be examined in the case in hand. In the facts and circumstances, further incarceration of the petitioner would serve no useful purpose. This Court, therefore, deems it fit to extend the concession of bail to the petitioner.

7. 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.

21.08.2023

Vinay

(MANJARI NEHRU KAUL)
JUDGE

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