

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

222-3

CRM-M-16619-2023

Date of decision: 21.08.2023

Dharminder

.....Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present : Mr. J.S. Thakur, 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 Section 302 of the IPC (Sections 201 and 120-B of the IPC added lateron) registered at Police Station Division No.1, District Jalandhar Commissionerate.

2. Learned counsel for the petitioner *inter alia* contends that the case in hand rests on circumstantial evidence. The dead body of deceased Manish, was found lying abandoned by the police, wrapped in a blanket, on the roadside. The police found that the deceased had been done to death after being inflicted multiple stab wounds. Learned counsel further submits that thereafter when investigation was carried out, the mother of the deceased made a statement wherein she alleged that her son had been done to death on account of some business rivalry with co-accused Upender Kewat. Lateron, on the basis of some secret information the petitioner was apprehended by the police, who

thereafter, allegedly confessed about his involvement in the murder of the deceased. Learned counsel submits that the motive as projected by the police to commit the murder in question was stated to be some monetary dispute between the deceased and the petitioner. It has been vehemently submitted that the statement on the basis of which the petitioner inculpated himself in the crime in question was inadmissible in evidence. It has been further vehemently argued that neither in the FIR nor in the testimony of the mother of the deceased, who stepped into the witness box as PW3 she raised any suspicion much less by way of any whisper, against the petitioner in the crime in question, so much so during trial when she stepped into the witness box, she was declared hostile. Learned counsel has, therefore, vehemently argued that there was hardly any evidence, much less legal, to connect the petitioner with the crime in question.

3. Per contra, learned State counsel while opposing the prayer made by learned counsel for the petitioner, on instructions has not disputed that the mother of the deceased did not support the case of the prosecution as a result of which she was declared hostile during trial, however, he submits that the petitioner was apprehended pursuant to a secret information received by the police. Thereafter, the petitioner as per the learned State counsel, himself confessed to his involvement in the crime in question. Learned State counsel has further informed the Court that as many as 08 prosecution witnesses out of the 31 cited have been examined which include the material witnesses as well.

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

5. As not disputed by the learned State counsel, all the material witnesses stand examined coupled with the fact that while stepping into the witness box they had not supported the case of the prosecution as a result of which they were declared hostile. The trial is unlikely to conclude in the near future. The co-accused of the petitioner are already on bail. The petitioner is not stated to be involved in any other criminal case. In the facts and circumstances as enumerated hereinabove, this Court deems it fit to allow the instant petition.

6. 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