

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

**CRM-M-19709-2023
Date of Decision: 26.04.2023**

VISHAL**... PETITIONER****V/S****STATE OF HARYANA****... RESPONDENT****CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL**

Present: Mr. Girdhari Arora, Advocate for
Mr. Mohit, Advocate
for the petitioner.

Ms. Rajni Gupta, Addl. A.G., Haryana.

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MANJARI NEHRU KAUL, J. (ORAL)

The instant petition has been filed under Section 439 Cr.P.C. for grant of the concession of bail in case bearing FIR No. 0449 dated 31.05.2022 under Section 3 of the Scheduled Castes and Schedule Tribes (Prevention of Atrocities) Act, 1989 and Sections 201, 302 and 34 IPC, registered at police Station Samalkha, District Panipat.

While drawing the attention of this Court to the FIR, which has been annexed as Annexure (P-1), learned counsel submits that there was no allegation much less by way of a whisper against the petitioner of having harassed the deceased or having conspired with the co-accused Nitesh in the murder of deceased Varsha.

Learned counsel submits that the petitioner came to be nominated as an accused on the basis of the disclosure statement made by co-accused Nitesh,

i.e., husband of the deceased. In support, learned counsel has drawn the attention of this Court to the disclosure statement (Annexure P-3). He submits that not only does the disclosure statement have weak evidentiary value but even perusal of the same leaves no manner of doubt that the petitioner had in no manner participated in the crime in question or was even aware that co-accused Nitesh would push his wife into the canal. He submits that in the disclosure statement co-accused Nitesh had categorically stated that as per his plan on the fateful day he along with his friend, i.e., the petitioner had left Panipat in his car and on reaching near a culvert on the Delhi parallel canal, he stopped the car and asked the petitioner to keep sitting, while he and his wife, i.e., the deceased went for a walk. However, when co-accused Nitesh returned without his wife, the petitioner enquired about her and it was then that he learnt from the co-accused Nitesh that the deceased had been pushed into the canal by him.

Learned counsel has further submitted that 3 prosecution witnesses, out of the 34 cited have been examined till date and the trial thus is going to take considerable time to conclude. Learned counsel also submits that the petitioner, who has been in custody since 05.06.2022, does not have any criminal antecedents.

Learned State counsel has opposed the prayer made by the counsel opposite but has not been able to dispute the contents of the disclosure statement (Annexure P-3). She submits that no doubt, the petitioner was not named in the FIR in question, however, he was accompanying both the deceased and co-accused Nitesh on the fateful day and time, when the crime in question was committed. She also submits that after co-accused Nitesh informed the petitioner that he had thrown the deceased into the canal, both the petitioner as well as co-

accused Nitesh enacted a drama and tried to mislead the investigating agency by throwing co-accused Nitesh's car, into the canal.

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

The petitioner has now been in custody since 05.06.2022 and there is no likelihood of the trial concluding in the near future as 29 prosecution witnesses remain to be examined. The petitioner is not involved in any other criminal case.

In the facts and circumstances, as enumerated hereinabove, this Court thus deems it fit to extend the concession of bail to the petitioner. The petition as such is allowed and the petitioner is admitted to bail to the satisfaction of the trial Court/Duty Magistrate. However, it is made clear that anything contained hereinabove shall not be construed to be an expression of opinion on merits of the case.

26.04.2023
manoj

(MANJARI NEHRU KAUL)
JUDGE

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