

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

CRM-M-22742-2023

Date of Decision: 30.5.2023

Dharambir

....Petitioner

VERSUS

State of Haryana

....Respondent

CORAM:- HON'BLE MR. JUSTICE KARAMJIT SINGH

Present: Mr. Pawan Kumar Hooda, Advocate
for the petitioner.

Ms. Harpreet Kaur, AAG, Haryana

KARAMJIT SINGH, J. (Oral)

Prayer in the present petition under Section 439 of Code of Criminal Procedure is for grant of regular bail to the petitioner in case FIR No.327 dated 21.8.2022 registered for the offences punishable under Sections 302, 34 IPC at Police Station Matlauda, District Sangrur.

2. The allegations in nutshell are that complainant-Mukesh Nath reported to the police that he was residing in *Kutia* and deceased Sewa Nath also started residing there and that on 20.8.2022, the complainant went to village Dharamgarh after leaving behind Sewa Nath in *Kutia* and he came to know that last night, Ram Pal Nath also stayed in the said *Kutia* along with Sewa Nath and at about 2:00 a.m., one Mahender along with his companions attacked Sewa Nath and Ram Pal Nath and thereafter, Ram Pal Nath ran away from there and when one Shamsher son of Mahabir visited *Kutia*, he found that Mahender was fighting with Sewa Nath and then said Shamsher intervened and thereafter, Shamsher left the spot. On the next

morning, when the complainant reached there, he found Sewa Nath lying dead in the *Kutia*. Consequently, FIR was registered in this case wherein Mahender was named as accused and during investigation, name of the present petitioner surfaced in the disclosure statement of aforesaid Mahender and thereafter, the petitioner was arrested.

3. Counsel for the petitioner submits that the petitioner has been falsely implicated in the present case on the basis of the alleged disclosure made by co-accused Mahender and the same is subject matter of the trial. He further submits that the petitioner is in custody for the last more than 9 months and no incriminating article was recovered from his possession and during trial, all the material witnesses including Shamsheer, Ram Pal Nath and complainant-Mukesh Nath turned hostile and copies of their testimonies are Annexures P-3 to P-7. He further submits that no purpose is going to be served by detaining the petitioner in custody for any longer period. So, prayer is made that the petitioner be granted regular bail.

4. Present petition is resisted by the State counsel who on instructions from SI Har Narayan submits that the petitioner is facing trial in a case relating to murder of Sewa Nath. However, the State counsel has not disputed the fact that the petitioner was not named in the FIR and later on, named as accused and is in custody for the last more than 9 months and that during trial, all the material witnesses failed to support the case of the prosecution.

5. I have considered the submissions made by the counsel for the parties.

6. In the given circumstances as the petitioner was not named in the FIR and now during trial, material witnesses have retracted from their

previous statements, no fruitful purpose is going to be served by keeping the petitioner in custody for any further period.

7. In view of the above, without commenting on the merits of the case, the present petition is allowed and the petitioner is ordered to be released on regular bail subject to his furnishing bail bonds/surety bonds to the satisfaction of the trial Court/Chief Judicial Magistrate/Duty Magistrate concerned.

(KARAMJIT SINGH)
JUDGE

May 30, 2023

Paritosh Kumar

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