

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

219

CRM-M-26429-2023

Date of decision: 04.07.2023

Nitesh Kumar

.....Petitioner

Versus

State of Haryana

.....Respondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present : Mr. Arun Sharma, Advocate
for the petitioner.

Mr. Rahul Mohan, Sr. DAG, Haryana assisted by
SI Prince.

MANJARI NEHRU KAUL, J. (ORAL)

1. The petitioner is seeking the concession of bail under Section 439 of the Code of Criminal Procedure, 1973 in case FIR No.448 dated 22.09.2021 under Sections 302, 201, 34 and 346 of the IPC and Sections 25, 54 and 59 of the Arms Act, 1959 registered at Police Station Kurukshetra University, Kurukshetra, District Kurukshetra.

2. Learned counsel for the petitioner contends that the petitioner who has been in custody since 22.09.2021 has been falsely implicated in the instant case for having murdered Farukh along with co-accused Sumit @ Fasiya at the instance of Shabnam, wife of deceased Farukh.

3. Learned counsel further submits that the petitioner has been nominated as an accused, in the instant case, on the basis of a disclosure statement allegedly made by co-accused Shabnam, which

does not have much evidentiary value. Learned counsel still further submits that since the case in hand rests on circumstantial evidence and the motive to commit the crime on account of his alleged illicit relations with wife of the deceased and that too by hiring an assassin i.e. co-accused Sumit, belies all logic, moreso when the petitioner is a student and still further, there was no whisper of suspicion raised against him or qua his possible involvement by the complainant at the time of lodging the FIR. In support, learned counsel has drawn the attention of this Court to the FIR which has been annexed as Annexure P-1.

4. Learned counsel has lastly urged that the trial shall take considerable time to conclude since 44 prosecution witnesses have been cited and till date only 04 stand examined.

5. Per contra, learned State counsel while opposing the prayer and submissions made by the counsel opposite, has submitted that the petitioner conspired with co-accused Shabnam, wife of deceased Farukh, to eliminate the deceased, on account of their illicit relations, for which they took the help of co-accused Sumit to carry out the crime. Learned State counsel has further submitted that the complainant had initially lodged an FIR under Section 346 of the IPC, as the deceased and his family including his wife, co-accused Shabnam, had been missing for 20 days, from their house in village Amin and their whereabouts were unknown. It was only when the police investigated into the matter, the wife of the deceased i.e. co-accused Shabnam, along with her children were traced to a house in Delhi and on being interrogated, she spilled the beans about the deceased having been murdered on 28.08.2021 by the petitioner along with co-accused Sumit.

Thereafter documentary evidence in the form of CCTV footage was also collected by the police which further nailed the petitioner in the crime in question. Learned State counsel has still further urged that there could be a possibility of the petitioner fleeing or even trying to influence the witnesses to depose in his favour, in case he is released on bail.

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

7. Prima facie there are serious allegations against the petitioner of having masterminded the murder of the deceased in connivance with co-accused Shabnam, on account of his alleged illicit relations with her. The weapon of offence was also recovered at the instance of the petitioner.

8. In the facts and circumstances, this Court does not deem it a fit case to extend the concession of regular bail to the petitioner. Accordingly, the instant petition is dismissed.

9. 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.

10. Since the petitioner has been in custody for more than 1½ years, the Trial Court shall make earnest efforts to expedite the trial and endeavour to conclude it within 08 months from the date of this order.

04.07.2023

Vinay

(MANJARI NEHRU KAUL)
JUDGE

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