

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

213

CRM-25855-2023 in/and
CRM-M-29457-2023
Date of decision: 04.07.2023

Deepak

.....Petitioner

Versus

State of Haryana

.....Respondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present : Mr. Vinod Ghai, Sr. Advocate with
Mr. Arnav Ghai, Advocate,
Mr. BNS Marok, Advocate and
Ms. Mahima Dogra, Advocate for the petitioner.

Ms. Trishanjali Sharma, DAG, Haryana.

MANJARI NEHRU KAUL, J. (ORAL)

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Allowed as prayed for.

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1. The petitioner is seeking the concession of bail under Section 439 of the Cr.P.C. in case FIR No.287 dated 05.12.2022 under Sections 302 and 34 of the IPC (Section 304 (Part II) of the IPC added and Section 302 of the IPC deleted lateron) registered at Police Station Rampura, District Rewari.

2. Learned senior counsel for the petitioner *inter alia* submits that a road side accident has been converted into a case of murder without there being any cogent much less convincing evidence worth the name on record. It has been urged that it was one Sandeep who telephonically informed the brother of the deceased i.e. complainant Chandram qua deceased lying dead, close to a liquor vend. As per the post mortem report, there were injuries on the head and ribs of the deceased which was indicative of it being indeed a road side accident.

During investigation, statement under Section 161 of the Cr.P.C. of one Mohan @ Reenu (Annexure P-6) was recorded who stated that the deceased along with both the co-accused including the petitioner had come to his hotel for meals and had also consumed alcohol. Though there was some argument between the deceased and co-accused Deepak son of Virender, however, thereafter they had all left together on a motorcycle. A disclosure statement was allegedly made by the petitioner wherein he stated that both the co-accused Deepak as well as the deceased were fighting with each other. The deceased fell on the road and was then run over by a car. Thereafter, a second disclosure statement was purportedly made by the petitioner to the effect that as he was trying to stop the deceased and co-accused from fighting, he pushed them on the road. The deceased was then run over by a passing vehicle. Learned senior counsel submits that the only link between the petitioner and the crime in question is the second disclosure statement made by the petitioner, which on the face of it has very weak evidentiary value. It has further been urged that even assuming for the sake of arguments, though not conceded, that the petitioner had indeed pushed the deceased and the co-accused on the road to stop them from fighting with each other and subsequently a car had run over the deceased it would not in any manner make it out to be a case of murder as there was neither any knowledge nor intent to cause the death of the deceased. Learned senior counsel has reiterated that the above disclosure statement needs to be appreciated in the light of the opinion given by the doctor in the post mortem report of it being a road side accident. It has been contended that investigation in the case in hand is

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complete and the charges stand framed, however, none of the 17 prosecution witnesses cited so far have been examined till date, hence, the trial would take considerable time to conclude. In the circumstances, further incarceration of the petitioner, who has now been in custody since 06.12.2022 would serve no useful purpose.

3. Per contra, learned State counsel while opposing made by the counsel opposite, submits that as per the petitioner's own disclosure statement it was he who pushed the deceased on the road as a result of which a passing vehicle ran over him. It has, however, not been disputed that after the charges were framed none of the 17 prosecution witnesses have been examined so far.

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

5. The case in hand rests on circumstantial evidence. Investigation is complete and charges stand framed. The next date fixed before the Trial Court is 21.07.2023 when the prosecution evidence is likely to commence. This Court, thus, deems it fit to extend the concession of bail to the petitioner.

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.

04.07.2023

Vinay

(MANJARI NEHRU KAUL)

JUDGE

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