

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

203

CRM-M-31740-2022

Date of decision:18.01.2023

Azad Kumar

... Petitioner

Vs.

State of Haryana

... Respondent

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present: Mr. Ankit Chahal, Advocate for the petitioner.

Mr. R.K.S. Brar, Addl. A.G., Haryana.

SUVIR SEHGAL J. (ORAL)

This is the second petition filed by the petitioner under Section 439 of Cr.P.C. for grant of regular bail in case FIR No.31, dated 27.04.2019 registered for the offences under Sections 302 and 201 of IPC, 1860, however, Sections 120-B and 465 of IPC were added later on, at Police Station Mansa Devi Complex, District Panchkula.

FIR has been registered when a half burnt dead body of a woman, was found near a liquor vend in Sector 5-B, Mansa Devi Complex, Panchkula.

Counsel for the petitioner contends that during investigation, it was found that the deceased was Arti, who allegedly was in a physical relationship with Anand, brother of the petitioner, and was pregnant from him. Counsel submits that except for the disclosure statement of Anand and the petitioner, both of which have been recorded in police custody, there is no incriminating material against the petitioner. He submits that the deceased was married and staying separately at her parental home since 2015-16 due to an estrangement with her husband and was in litigation with him. Counsel submits that both the mother of the deceased as well as her husband, have been examined. He asserts that the petitioner,

who has clean antecedents and is in custody since 07.05.2019, deserves to be enlarged on bail. Still further, counsel submits that the first petition filed by the petitioner was withdrawn, after arguments, on 17.08.2021 and thereafter prosecution has examined material witnesses, but in their testimony, they have not ascribed any role to the petitioner.

Per Contra, learned State counsel, upon instructions, has opposed the petition and has submitted that the petitioner in connivance with his brother-Anand had strangled the deceased and burnt her. Upon instructions, he submits that DNA profile of the fetus of the deceased, has matched with that of co-accused, Anand. Still further, as per his instructions, 09 out of 25 prosecution witnesses have been examined.

Having heard counsel for the parties, this Court is *prima facie* of the view that the complicity of the petitioner in the homicide, would remain a subject matter of debate before the trial court. Petitioner, who is in custody for the last more than 03 years and 08 months, would be entitled to be released on bail as the trial is likely to take time to conclude since the prosecution has to examine 16 more witnesses.

Without advertng to the merits or de-merits of the arguments addressed, petition is allowed. Petitioner is ordered to be enlarged on bail on furnishing bail/surety bonds to the satisfaction of the Trial Court/Duty Magistrate concerned.

It is clarified that any observation made hereinabove shall not be construed to be an expression of opinion on the merits of the case.

18.01.2023

(SUVIR SEHGAL)
JUDGE

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Whether Speaking/Reasoned	Yes/No
Whether Reportable	Yes/No