

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

CRM-M No.31470 of 2023
Date of decision: 17th October, 2023

Ankit @ Cheeku

... Petitioner

Versus

State of Haryana

... Respondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present: Mr. Sandeep Kumar, Advocate for the petitioner.
Mr. Rahul Mohan, Sr. Dy. Advocate General, Haryana
for the respondent/State.

MANJARI NEHRU KAUL, J. (ORAL)

1. The petitioner is seeking the concession of bail under Section 439 Cr.P.C. in case FIR No.10 dated 11.01.2020 under Section 302 IPC registered at Police Station Murthal, District Sonipat.

2. Learned counsel for the petitioner inter alia contends that even though the petitioner has now been in custody for close to three years, having been arrested on 16.01.2020, however, there is no likelihood of the trial concluding in the near future, as only 2 out of the 16 witnesses cited by the prosecution have been examined so far. Learned counsel submits that the case in hand hinges on circumstantial evidence, which was lodged at the instance of mother of Kuldeep (since deceased). She was the only witness in the case in hand, however, she had died after registration of the FIR in question and ever since charges

were framed on 09.07.2021, the case was being adjourned repeatedly. Learned counsel has further submitted that except for the bald allegations levelled by the complainant that the petitioner and her deceased son had returned home in an inebriated condition on 10.01.2020 and thereafter the petitioner had again come back to the house requesting the complainant to let him stay for the night in their house, there was no evidence from which it could be even remotely discerned that the deceased had been done to death by the petitioner. A prayer has therefore, been made for extending the concession of bail to the petitioner, as his further incarceration would serve no useful purpose.

3. Per contra, learned State counsel while opposing the prayer and submissions made by the counsel opposite, on instructions from ASI Narender, has not disputed that the complainant in the case in hand is the sole material witness and she has since expired. However, he submits that two witnesses out of the 16 cited by the prosecution stand examined and the date of hearing fixed before the trial Court was today, when some more prosecution witnesses may be examined. It has not been disputed that the remaining witnesses are all formal witnesses. On a pointed query put to the learned State counsel, it has not been disputed that the petitioner is not involved in any other criminal case.

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

5. The petitioner has now been in custody since 16.01.2020. As per the post-mortem report of the deceased, only some abrasions on his

person were found and it was on account of cumulative effect of the abrasions that the deceased had died. There is no likelihood of the trial concluding in the near future as only 2 witnesses out of the 16 cited by the prosecution have been examined so far. 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 observed hereinabove shall not be construed to be an expression of opinion on the merits of the case.

(MANJARI NEHRU KAUL)
JUDGE

October 17, 2023
rps

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