

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

222

2023:PHHC:116831

CRM-M-31818-2023 (O&M)

Date of decision: September 5th, 2023

Mahavir @ Teena

.....Petitioner

Versus

State of Haryana

.....Respondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present: Mr. Rahul Sidher, Advocate
for the petitioner.

Mr. Rahul Mohan, Senior Deputy Advocate General,
Haryana.

MANJARI NEHRU KAUL, J. (ORAL)

CRM-35342-2023

For the reasons mentioned in the application, the same is allowed subject to just exceptions and testimony of PW-13 Naveen is taken on record as Annexure A-1.

CRM-M-31818-2023

The petitioner is seeking the concession of bail under Section 439 Cr.P.C. in case FIR No.254 dated 27.10.2019 under Section 302 IPC registered at Police Station Agroha, District Hisar.

2. Learned counsel for the petitioner, at the outset, submits that the petitioner has been in custody for almost four years having been arrested on 27.10.2019 in a case resting on circumstantial evidence and till date, the trial has not concluded as 11 prosecution witnesses still remain to be examined. It has been further submitted that the sole material witness in the case in hand i.e. PW-13 Naveen (witness of last seen) has, however, been examined and hence, in the

circumstances and keeping in view the long incarceration of the petitioner, he be extended the concession of bail.

3. On merits, it has been furthermore submitted that it is admittedly a case resting on circumstantial evidence and no clear cut motive to commit the murder of Naresh, which is of paramount importance in such like cases, is clearly forthcoming as a perusal of the FIR, which was lodged at the instance of the father of the deceased, reveals that a vague suspicion had been raised against the petitioner that he along with many other persons may have committed the murder of his son as he had come to know that before the occurrence in question, both, his deceased son and the petitioner had been consuming liquor together.

4. *Per contra*, learned State counsel while opposing the prayer and submissions made by the counsel opposite, has submitted that PW-13 Naveen, who was the witness of last seen while getting his statement recorded under Section 161 Cr.P.C. had stated that on the fateful night, he had seen the petitioner flee from the house of the deceased in soiled clothes. Thereafter, when PW Naveen went inside the house, he saw the deceased lying in an injured condition. It has been further submitted that the motive to commit the crime in question was some unparliamentary language which was used by the petitioner against the sister of the deceased, which led to a quarrel between them while they were consuming liquor together. Learned State counsel, on instructions, has submitted that the motive to commit the crime in question, came to light during the interrogation of the petitioner on being arrested on 27.10.2019. However, learned State counsel has not been able to dispute that the sole material witness i.e. PW Naveen has

since been examined during trial. It has been submitted that PW Naveen, while stepping into the witness box, had corroborated his statement made to the police under Section 161 Cr.P.C.

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

6. The petitioner has been in custody for almost four years having been arrested on 27.10.2019. All the material witnesses including the complainant as well as the witness of last seen stand examined. However, the trial would still take considerable time to conclude as the next date before the trial Court is 20.10.2023, when four prosecution witnesses out of the remaining 11 are likely to step into the witness box to get their evidence recorded.

7. In the facts and circumstances as enumerated hereinabove, keeping in view the long incarceration of the petitioner and the fact that he is not involved in any other criminal case, this Court deems it fit to extend the concession of bail to the petitioner. 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.

September 5th, 2023

Puneet

**(MANJARI NEHRU KAUL)
JUDGE**

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No