

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

CRM-M No.35909 of 2022

Date of decision: 16th January, 2023

Amit Kumar @ Babu

... Petitioner

Versus

State of Haryana

... Respondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present: Mr. G.C. Shahpuri, Advocate for the petitioner.

Mr. Surender Singh, Asst. Advocate General, Haryana
for the respondent/State.

MANJARI NEHRU KAUL, J. (ORAL)

Petitioner in the instant petition filed under Section 439 Cr.P.C. is seeking concession of regular bail in case bearing FIR No.358 dated 08.03.2020 under Sections 148, 149, 323, 325, 452, 506, 212, 302 IPC registered at Police Station City Jagadhri, District Yamuna Nagar.

Learned counsel for the petitioner inter alia contends that the false implication of the petitioner in the FIR in question, which has been annexed as Annexure P-1, is evident from the fact that all the three material witnesses, i.e. the complainant (wife of the deceased) as well as the sons of the deceased, who were alleged witnesses to the occurrence in question, did not support the case of the prosecution

while stepping into the witness box and as a result thereof were declared hostile. Learned counsel, while drawing attention of this Court to the allegations levelled in the FIR, has further submitted that even otherwise, the only role attributed to the petitioner is a blow of iron rod on the legs of the deceased which even as per the post-mortem report, was not the cause of death. Learned counsel therefore, submits that in the aforementioned circumstances, further incarceration of the petitioner would serve no useful purpose as 25 prosecution witnesses out of total 33 cited remain to be examined.

Per contra, learned State counsel on instructions from ASI Jasmer, while opposing the prayer and submissions made by the counsel opposite, has not been able to dispute the submissions made by him qua the role attributed to the petitioner in the crime in question and also qua all the three material witnesses having not supported the case of the prosecution during trial.

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

The petitioner has now been in custody since 01.09.2020 and as many as 25 prosecution witnesses remain to be examined. All the three material witnesses stand examined and did not support the case of the prosecution during trial. In the facts and circumstances, as enumerated hereinabove, this Court deems it fit to allow the instant

petition. 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 contained hereinabove shall not be construed to be an expression of opinion on the merits of the case.

(MANJARI NEHRU KAUL)
JUDGE

January 16, 2023
rps

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