

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

**CRM-M No.36455 of 2023**

Date of decision: 18<sup>th</sup> August, 2023

Deepak @ Sunil

... Petitioner

Versus

State of Haryana

... Respondent

**CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL**

Present: Mr. Rajesh K. Bhagal, Advocate for the petitioner.

Mr. G.S. Chheena, Asst. 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.182 dated 25.05.2022 under Sections 148, 149, 302 IPC registered at Police Station Narwana Sadar, District Jind.

2. Learned counsel for the petitioner inter alia submits that a perusal of the FIR in question reveals that the petitioner was not named therein, nor any role attributed to him. He further submits that the petitioner came to be nominated as an accused in the case in hand on the basis of a disclosure statement allegedly suffered by co-accused Anil alias Vicky and that too, after almost one month of the occurrence in question, i.e. on 22.06.2022. Learned counsel, while drawing the attention of this Court to the allegations levelled in the FIR, which has been annexed as Annexure P-1, has submitted that it was alleged therein that there was some dispute between deceased Rajinder and his

wife Sewapati, as a result of which the latter had been residing along with her sister Kalawati, while the deceased had been residing in the house of his brother Bajinder. Furthermore, as per the FIR, the motive to commit the murder of the deceased was that his wife Sewapati suspected that the deceased would transfer his land in the name of his brother Bajinder. Hence, she along with her sister Kalawati, Anil alias Vicky, Pradeep alias Deep and four others, killed him on 24.05.2022 at about 7:00 p.m. after assaulting him with sticks and bindas, which fact was allegedly told by co-accused Anil alias Vicky himself, over the telephone to the complainant Rampal i.e. uncle of the deceased. Learned counsel, while drawing the attention of this Court to the disclosure statement, which has been annexed as Annexure P-2 and on the basis of which the petitioner was eventually nominated as an accused, has argued that however, it was at complete variance with the allegations levelled in the FIR, particularly the motive to commit the crime which had been spelt out therein. He has contended that in the disclosure statement, co-accused Anil alias Vicky, gave out a totally different motive to commit the crime and stated that on account of some verbal spat between him and the deceased, which had taken place on the day of Holi, he had telephoned co-accused Rinku to come to the place of occurrence, who in turn telephoned the petitioner and asked him also to come to the place of occurrence, where then all the three assaulted the deceased to death. Learned counsel has therefore, asserted that in a case resting on circumstantial evidence, motive which plays the most important role, was not even present qua the petitioner to carry out the crime much less connive with the co-accused. It has also been

submitted that other than the disclosure statement suffered by co-accused Anil alias Vicky, there was no material collected by the investigating agency, which could in any manner link the petitioner with the crime in question and even such a disclosure statement had very weak evidentiary value. Learned counsel has still further submitted that the wife of the deceased Sewapati and her sister Kalawati had been found innocent during investigation and it was only her nephew Anil alias Vicky, who had been challaned. It has, still further been submitted that after the challan was presented on 15.09.2022, the trial had not made any progress as even charges had not been framed. 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, has not been able to controvert that two versions had come forth qua the motive to commit the crime in question, the first one having been spelt out in the FIR, while the second one being spelt in the disclosure statement suffered by co-accused Anil alias Vicky. It has also not been disputed that Sewapati as well as her sister Kalapati, i.e. mother of Anil alias Vicky, were found innocent and placed in column No.2 by the investigating agency. Learned State counsel, on further instructions, has however submitted that accused Anil alias Vicky had telephoned co-accused Rinku to come to the place or occurrence, who then telephoned the petitioner to accompany him and thereafter, all three of them committed the murder of the deceased.

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

5. The case in hand rests on circumstantial evidence. Motive to commit the crime in such like cases plays an important role. However, in the case in hand, two different motives to commit the murder of Rajinder have come to the fore. In both the scenarios, the motive to commit the crime in question has been attributed to co-accused Anil alias Vicky. The petitioner has been in custody for more than one year, having been arrested on 09.07.2022. Charges have not yet been framed and are likely to be framed on the next date of hearing fixed before the trial Court i.e. 17.10.2023. 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

August 18, 2023  
*rps*

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|---------------------------|--------|
| Whether speaking/reasoned | Yes/No |
| Whether reportable        | Yes/No |