

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M No.40497 of 2022 (O&M)

Date of decision: 11th April, 2023

Ashok Kumar @ Shoki

... Petitioner

Versus

State of Haryana

... Respondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present: Mr. R.S. Randhawa, Advocate for the petitioner.

Mr. Chetan Sharma, Assistant Advocate General, Haryana
for the respondent/State.

MANJARI NEHRU KAUL, J. (ORAL)

The instant petition has been filed under Section 439 Cr.P.C.
for grant of the concession of bail in case bearing FIR No.0434 dated
07.11.2020 under Section 346 IPC (Sections 201, 302, 364, 120-B IPC
added later-on and Section 346 IPC deleted) registered at Police Station
Pundri, District Kaithal.

Learned counsel for the petitioner inter alia contends that it
is a case resting on circumstantial evidence and even the motive to
commit murder of deceased Balraj was attributed to co-accused Vikas
alias Kashi as his paternal aunt was allegedly in a relationship with the
deceased. Learned counsel submits that initially a missing report was
lodged on 07.11.2020 by the father of the deceased followed by

supplementary statement under Section 161 Cr.P.C. made on 08.11.2020, wherein the complainant raised a suspicion that his deceased son had probably been kidnapped and later-on murdered by some unknown persons and thereafter, the dead body thrown into a drain. While drawing attention of this Court to Annexure P-4, which is yet another supplementary statement under Section 161 Cr.P.C., learned counsel submits that therein the complainant came up with another version that there was a CCTV footage of a white color Swift car having been seen on 05.11.2020 in front of the house of co-accused Vikas alias Kashi, which had been used by the accused to kidnap the deceased and the same had met with an accident while being driven by co-accused Vikas. The car had then been allegedly repaired by one Sila Mistry at Kaithal. Learned counsel submits that it was for the first time while recording his statement i.e. Annexure P-4, on 09.11.2020, the complainant alleged that the petitioner had accompanied accused Vikas alias Kashi, when the car was taken for repair to Sila Mistry at Kaithal. However, it was a matter of record that said Sila Mistry while stepping into the witness box, failed to support the case of the prosecution much less depose about the petitioner having accompanied the co-accused Vikas alias Kashi for repairs of the car, and as a result of which he was declared hostile. Learned counsel submits that since only three prosecution witnesses out of the 46 cited, have been examined till date, there is no likelihood of the trial concluding in the near future and

hence, further incarceration of the petitioner would serve no useful purpose.

Per contra, learned State counsel while opposing the prayer and submissions made by the counsel opposite, on instructions from ASI Anil Kumar, has not been able to controvert that the motive to commit the crime was with co-accused Vikas alias Kashi, who was averse to the illicit relationship of the deceased with his aunt, however, he submits that the petitioner was a friend of the main accused and the deceased was abducted by the accused in his car, and later on done to death. Learned State counsel has also not been able to controvert that PW Sila Mistry, who had allegedly repaired the car in which the deceased had been kidnapped and which had met with an accident, had turned hostile during trial. On a pointed query put to the learned State counsel qua the antecedents of the petitioner, he submits that the petitioner is not involved in any other criminal case.

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

The petitioner has been in custody since 11.11.2020 and as many as 43 prosecution witnesses remain to be examined and thus the trial shall take considerable time to conclude. Furthermore, the case rests on circumstantial evidence and the motive to commit the murder of the deceased has been attributed to the co-accused Vikas alias Kashi. 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 contained hereinabove shall not be construed to be an expression of opinion on the merits of the case.

(MANJARI NEHRU KAUL)
JUDGE

April 11, 2023

rps

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