

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M No.44052 of 2023
Date of decision: 12th September, 2023

Jai Bhagwan

... Petitioner

Versus

State of Haryana

... Respondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present: Mr. Ashish Sanghi, 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.182 dated 25.05.2022 under Sections 302, 148, 149 IPC (Sections 201 and 120-B IPC added later on) registered at Police Station Sadar Narwana, District Jind.

2. Learned counsel for the petitioner inter alia contends that the petitioner was neither named in the FIR (Annexure P-1) nor any suspicion much less by way of a whisper raised qua his involvement in the murder of Rajinder (hereinafter referred to as, 'the deceased'). It was after one month of the crime in question, the petitioner was nominated as an accused on the basis of a disclosure statement allegedly suffered by co-accused Anil (nephew of wife of the deceased), who stated that he along with his friends including the petitioner had done the deceased to death on 24.05.2022, on account of a verbal altercation that had taken

place between him and the deceased on the day of Holi. Learned counsel has drawn the attention of this Court to the FIR to urge that the version put forth by the complainant was at complete variance with the case put up by the prosecution before the trial Court, as in the FIR, the complainant (uncle of the deceased) had alleged that the estranged wife of the deceased along with her other family members including co-accused Anil had assaulted the deceased to death with sticks and bindas as she suspected that the deceased would transfer his land in the name of his brother, and which fact was disclosed by none other than co-accused Anil to the complainant. Learned counsel has argued that firstly the evidentiary value of such a delayed disclosure statement is of a highly weak nature and secondly, since the case rests on circumstantial evidence, the motive to commit the crime in question, was not even attributed to the petitioner as to why he would have connived with co-accused Anil to commit the murder of Rajinder. It has still further been contended that all the other accused except accused Anil, who were named in the FIR, including wife of the deceased, were found innocent during investigation. It has been thus, asserted that on the face of it, a false case has been planted as other than the disclosure statement suffered by the co-accused, there was no other evidence against the petitioner much less any witness of last seen. It has also been submitted that the case of the petitioner is at par with that of co-accused Sagar and Deepak alias Sunil, who have been enlarged on bail by this Court vide orders dated 14.07.2023 (Annexure P-3) and order dated 18.08.2023 (Annexure

P-4). It has still further been submitted that after the challan was presented on 15.09.2022, there has been no progress before the trial Court as charges also have not been framed. Hence, the trial would take considerable time to conclude and further incarceration of the petitioner would serve no useful purpose.

3. Per contra, learned State counsel while opposing the prayer made by the counsel opposite, on instructions ASI Balwan, has not been able to controvert that the petitioner was neither named in the FIR in question nor any suspicion raised qua his involvement in the crime in question. It has also not been disputed that the alleged motive to commit the murder of Rajinder had been attributed to co-accused Anil. Learned State counsel, on further instructions, submits that the next date of hearing fixed before the trial Court is 17.10.2023, when the charges are likely to be framed. Learned State counsel has also not disputed that the case of the petitioner is at par with that of his other two co-accused namely Sagar and Deepak alias Sunil, who have since been extended the concession of bail by this Court.

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

5. The case in hand hinges on circumstantial evidence. As per the allegations levelled in the FIR, the motive to commit the murder was an apprehension in the mind of the co-accused and his family members that the deceased would transfer his property in the name of his brother, however, later on, when co-accused Anil was apprehended he spelt out a

different motive to commit the crime in question i.e. some verbal spat between him and the deceased during the festival of Holi. The petitioner, who has been arraigned as an accused on the basis of a disclosure statement of co-accused Anil, has been in custody since 21.02.2023. After the challan was presented way back on 15.09.2022, charges have yet not been framed, coupled with the fact that as many as 36 prosecution witnesses have been cited by the prosecution. Hence, it is evident that the trial would take considerable time to conclude. 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.

6. Needless to add here, in case the petitioner misuses the concession of bail, the State would be at liberty to approach this Court for cancellation of bail in the instant case.

(MANJARI NEHRU KAUL)
JUDGE

September 12, 2023

rps

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