

204 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-46719-2022
Decided on : 17.03.2023

Rajesh Kumar

..... Petitioner

Versus

State of Haryana

..... Respondent

CORAM : HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present : Ms. Sharmila Sharma, Advocate
for the petitioner.

Mr. Chetan Sharma, AAG, Haryana.

Mr. Deepak Chaudhary, Advocate
for the complainant.

Manjari Nehru Kaul, J.(Oral)

This is the fourth petition filed under Section 439 Cr.PC for grant of regular bail to the petitioner in case FIR No.117 dated 26.06.2019 under Sections 147, 149 and 304-B IPC (challan presented under Section 306 IPC and charge-sheeted under Sections 302, 328 and 34 IPC) registered at Police Station Bhattu Kalan District Fatehabad as earlier petition was dismissed as withdrawn on 11.08.2020.

On a pointed query put to learned counsel to the petitioner as to what was the material change in the circumstances, which would warrant entertaining the instant petition, she submits that the trial has come to a virtual stand still as despite repeated adjournments by the trial Court, PW-Sameshta, sister of the deceased, has not been putting in appearance to

get her evidence recorded. It has also been submitted that an application under Section 319 Cr.PC for summoning additional accused has since been allowed by the trial Court, as a result of which, a *de novo* trial has now commenced, hence, the trial shall take considerable time to conclude. On merits, it has been submitted that it was only for the first time, while registering the FIR in question, the complainant alleged that the deceased was being harassed by her in-laws family for getting insufficient dowry and that panchayats in the said regard had been convened. However, it was a matter of record that no complaint against the in-laws family much less against the petitioner was ever made by either the deceased or by the complainant in the said regard, who admittedly had been married with the petitioner for 14 years.

Per contra learned State counsel assisted by counsel for the complainant while opposing the prayer has not been able to controvert that despite repeated adjournments given by the learned trial Court, PW-Sameshta had failed to step into the witness box to get her evidence recorded. Learned State counsel submits that the delay in the conclusion of the trial has also been on account of the fact that a *de novo* trial has commenced after an application filed under Section 319 Cr.PC for summoning additional accused was allowed. Learned State counsel, however, submits that in view of the serious allegations levelled against the petitioner of having administered poison to his wife i.e. the deceased, he did not deserve the concession of bail.

Heard learned counsel for the parties and perused the relevant material on record.

The petitioner has been in custody since 29.07.2019. A *de novo* trial has commenced after an application under Section 319 Cr.PC for summoning additional accused to face trial was allowed. One of the material witnesses i.e. PW-Sameshta has failed to appear before the trial Court to get her evidence recorded despite repeated adjournments given by it, therefore, there is no likelihood of the trial concluding in the near future.

In the facts and circumstances as enumerated hereinabove keeping in view the long incarceration of the petitioner, who has been in custody since 29.07.2019, this Court deems it fit to extend the concession of bail to the petitioner. Accordingly, the present petition is allowed. The petitioner be admitted to bail to the satisfaction to 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.

(MANJARI NEHRU KAUL)
JUDGE

17.03.2023
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Whether speaking/reasoned:	Yes/No
Whether reportable :	Yes/No