

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

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**CRM-M-51232-2022
Date of decision: 25.01.2023**

Raj Kumar @ Raju

.....Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present : Mr. Anil Kumar Spehia, Advocate
for the petitioner.

Mr. Ramdeep Partap Singh, Sr. DAG, Punjab.

MANJARI NEHRU KAUL, J. (ORAL)

This is the second petition filed under Section 439 of the Cr.P.C. for grant of regular bail to the petitioner in case FIR No.0050 dated 17.03.2019 lodged under Sections 363, 366-A, 302, 201 and 120-B of the IPC (Section 366-A deleted and Sections 364 and 376-D of the IPC and Sections 3 and 4 of the POCSO Act, 2012 added lateron) registered at Police Station Sultanpur Lodhi, District Kapurthala.

Previous petition filed by the petitioner seeking similar relief was dismissed on 22.02.2022.

On a pointed query put to the learned counsel for the petitioner as to what was the change in circumstances which would warrant entertaining the instant petition, he submits that thereafter an application under Section 319 of the Cr.P.C. moved by the prosecution was allowed as a result of which co-accused namely Manjeet Kaur, Kulwinder Kaur and Harpreet Kaur had been summoned to face trial. Resultantly, a denovo trial had now commenced.'

Leaned counsel for the petitioner inter alia contends that

the petitioner has now been in custody since 18.03.2019 and as a denovo trial has commenced, there is no likelihood of it concluding any time in the near future. While drawing the attention of this Court to the allegations levelled in the FIR which has been annexed as Annexure P-1, he submits that the complainant had alleged that her daughter i.e. deceased Kamaljit Kaur who was a minor had been fraudulently enticed away on the pretext of marriage by Phuman Singh and his family. Learned counsel submits that no specific attribution was there in the FIR in question qua the petitioner having murdered the deceased. He submits that following the death of the deceased, on the next day itself said Phuman Singh died by suicide. Learned counsel further submits that the only role attributed to the petitioner in the report under Section 173 of the Cr.P.C. is that it was the petitioner who had got the dead body of the deceased recovered from a well.

Per contra, learned State counsel while opposing the prayer and submissions made by learned counsel for the petitioner, on instructions has not disputed that the only role attributed to the petitioner in the crime in question is that he had pointed to the well where the dead body of the deceased was found in a highly decomposed condition. He has conceded that the main role attributed in the FIR in question was to Phuman Singh who had admittedly committed suicide on the following day of the death of the deceased. He further submits that as many as 30 prosecution witnesses have been cited and after the trial commenced denovo only 07 prosecution witnesses stand examined till date.

On a pointed query put to the learned State counsel as to

whether the petitioner was involved in any other criminal case, he has on instructions replied in the negative.

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

Admittedly, a denovo trial has commenced after summoning of the additional accused namely Manjeet Kaur, Kulwinder Kaur and Harpreet Kaur, hence, trial shall take considerable time to conclude. Learned State counsel on instructions has not raised any apprehension of the petitioner fleeing from the process of justice in case he is enlarged on bail. In the facts and circumstances as enumerated hereinabove and considering the long incarceration of the petitioner, who admittedly has been in custody since 18.03.2019, this Court deems it fit to extend the concession of bail to the petitioner.

Accordingly, the instant petition is allowed. The petitioner be admitted to bail to the satisfaction of 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.

25.01.2023

Vinay

(MANJARI NEHRU KAUL)
JUDGE

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