

CRM-43543-2023 in/and
CRA-S-2950-2023
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2023:PHHC: 153102
-1-
IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH
CRM-43543-2023 in/and
CRA-S-2950-2023
Date of decision: 01.12.2023
SANJAY @ GOLU
.....APPLICANT-APPELLANT
VERSUS
STATE OF HARYANA
.....RESPONDENT

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present : Mr. Deepak Kumar, Advocate
for the applicant-appellant.

Mr. Rahul Mohan, Sr. DAG, Haryana.

MANJARI NEHRU KAUL, J. (ORAL)

CRM-43543-2023

This is an application for condonation of delay of 140 days in filing the present appeal.

For the reasons mentioned in the application, the same is allowed and the delay of 140 days in filing the present appeal, is hereby condoned.

Application stands disposed of.

CRA-S-2950-2023

1. The appeal is against the impugned order dated 22.02.2023 passed by Ld. Additional Sessions Judge, Hisar, whereby the regular bail application of the appellant has been dismissed in case FIR No.618 dated 05.07.2018 under Sections 302, 34 IPC (Sections 365, 201 IPC and Section 3 of the Scheduled Caste and Scheduled Tribes (Prevention of Atrocities) Act, 1989 added later on), registered at Police Station City Hisar, District Hisar.

2. Learned counsel contends that the appellant has been in custody since 05.09.2018 in a case of false implication, which is further fortified from

the fact that the complainant (brother of the deceased), while stepping into the witness box had failed to support the case of the prosecution, as a result of which, he was declared hostile. Learned counsel has further submitted that it is a case resting on circumstantial evidence and the motive alleged against the applicant-appellant to commit the murder of Vijay was spelt out by the complainant while lodging the FIR; the motive alleged was some money dispute between the parties. Learned counsel has submitted that no other evidence had been gathered by the investigating agency *qua* the involvement of the applicant-appellant in the crime in question.

3. It has also been submitted that the applicant has now been in custody since 05.09.2018 and as on date, only 17 prosecution witnesses stand examined, hence, the possibility of the trial concluding in the near future does not arise as 12 witnesses still remain to be examined. Learned counsel has also submitted that similarly situated co-accused Naresh and Rajat @ Rajju have since been extended the concession of bail by this Court vide orders dated 28.08.2019 and 31.10.2019 respectively. A prayer has, therefore, been made to extend the concession of bail to the applicant-appellant as in the aforementioned facts and circumstances, his further incarceration would serve no useful purpose.

4. Per contra, learned State counsel while opposing the prayer and submissions made by learned counsel for the petitioner, on instructions from ASI Sandeep, has not been able to dispute that the complainant, who also is a sole material witness in the case in hand had been declared hostile during the trial. It has also been submitted that the next date fixed before the trial Court is 17.01.2024, when some more prosecution witnesses out of the remaining 12 are likely to be examined.

5. I have heard learned counsel for the parties and perused the

material placed on record.

6. In the facts and circumstances as enumerated hereinabove, this Court deems it fit to extend the concession of bail to the petitioner.

7. Accordingly, the instant appeal is allowed. The applicant-appellant 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.

01.12.2023
manoj

(MANJARI NEHRU KAUL)
JUDGE

<i>Whether speaking/reasoned :</i>	<i>Yes/No</i>
<i>Whether reportable :</i>	<i>Yes/No</i>