

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

CRM-M No.55815 of 2023
Date of decision: 23rd November, 2023

Satyam Kumar @ Lambu

... Petitioner

Versus

State of Punjab

... Respondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present: Mr. S.S. Behl, Advocate for the petitioner.

Mr. Mohit Kapoor, Addl. Advocate General, Punjab
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.86 dated 07.05.2022 under Section 302 IPC registered at Police Station Tibba, District Ludhiana.

2. Learned counsel for the petitioner inter alia contends that it is a case of blind murder; the deceased Inam, brother of the complainant, was found lying murdered in his shop with sharp injuries on his neck. While drawing the attention of this Court to the allegations levelled in the FIR, which has been annexed as Annexure P-1, it has been further contended that the complainant while lodging the FIR in question had stated that in the wee hours of the morning of 7th May, 2022, he received a telephonic call from PW Akash (landlord of the shop of the deceased),

that his brother was lying on the floor of the shop with blood all over; it was then that the complainant and his other family members reached the place of occurrence. It has been vehemently argued by the learned counsel that in the FIR lodged by the complainant, he did not raise any suspicion qua the involvement of any person much less the petitioner and had rather categorically stated that the deceased had no enmity with anyone. However, later on, the petitioner was nominated as an accused on the basis of a statement made by PW Akash that while he was returning from the gym on the preceding night of the date of occurrence at about 10/11.00 p.m., he went inside the shop of the deceased for a haircut where he saw the petitioner and deceased consuming liquor. Learned counsel has submitted that the post mortem report/viscera of the deceased, on the contrary, was completely silent about the presence of any traces of alcohol and in case, as had been stated by PW Akash that the deceased was consuming liquor with the petitioner, some evidence to the said effect would have clearly found reflected in the post mortem report. Furthermore, there was no scientific evidence on record in the shape of Finger Print Expert's report which could in any manner link the petitioner with the crime in question. It has been further contended that the case in hand hinges on circumstantial evidence, however, even no motive whatsoever has been spelt out by the prosecution on the part of the petitioner to commit the crime in question.

3. Learned counsel has further submitted that the petitioner has been in custody for more than 1 ½ years, having been arrested on 07.05.2022; all the 5 material witnesses including the complainant as well as PW Akash, on whose statement the petitioner was nominated as an accused, already stand examined and 14 prosecution witnesses still remain to be examined, hence trial would take considerable time to conclude.

4. Per contra, learned State counsel while opposing the prayer and submissions made by the counsel opposite, on instructions, has not been able to controvert that the case in hand is based on circumstantial evidence and there was no motive spelt out by the prosecution on the part of the petitioner to commit the crime in question. However, he has contended that during investigation statement of one Mohd. Irfan was also recorded, who stated that the petitioner had gone to him and confessed to his involvement in the murder of the deceased following an altercation between them, as they both were under the influence of liquor. On a pointed query put to the learned State counsel as to whether all the material witnesses stand examined, he, on instructions, has replied in the affirmative. On a further query as to whether there was any report of the Finger Print Expert qua the finger prints lifted, he replied in the negative.

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

6. As not disputed by the learned State counsel that the petitioner has been in custody for 1 ½ years, all the material witnesses stand examined, coupled with the fact that 14 witnesses cited by the prosecution still remain to be examined, further incarceration of the petitioner in the facts and circumstances would serve no useful purpose. 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.

(MANJARI NEHRU KAUL)
JUDGE

November 23, 2023
rps

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