

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

215

CRM-M-58514-2022 (O&M)

Date of decision: 16.08.2023

Upendar Kevat

.....Petitioner

Versus

The State of Punjab

.....Respondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present : Mr. Vipul Aggarwal, Advocate
for the petitioner.

Mr. Subhash Godara, Addl. A.G., Punjab.

MANJARI NEHRU KAUL, J. (ORAL)

1. The petitioner is seeking the concession of bail under Section 439 of the Cr.P.C. in case FIR No.104 dated 18.07.2020 under Section 302 of the IPC (Sections 120-B and 201 of the IPC added subsequently) registered at Police Station Division No.1, District Police Commissionerate Jalandhar.

2. Learned counsel for the petitioner submits that the petitioner has been in custody since 18.07.2020 for allegedly committing the murder of Manish Kumar on 17.07.2020. Learned counsel submits that it is a case resting on circumstantial evidence and there was no cogent evidence on record which could in any manner link the petitioner with the crime in question. It has further been submitted that though the motive to commit the murder was spelt out by the mother of the deceased qua there being some business rivalry between her deceased son and the petitioner, however, the mother of the deceased i.e. Gurbaksh Kaur while stepping into the witness box as

PW3 had not supported the case of the prosecution as a result of which she had been declared hostile. In support, learned counsel has drawn the attention of this Court to Annexure P-9 which is the deposition of PW3 Gurbaksh Kaur. Learned counsel has further submitted that other than the mother of the deceased there was no other material prosecution witness in the case in hand and hence, his further incarceration would serve no useful purpose as there could be no possibility of the petitioner trying to tamper with evidence or to influence the prosecution witnesses to depose in his favour.

3. Per contra, learned State counsel while opposing the prayer made by learned counsel for the petitioner, on instructions, has not been able to dispute that the case in hand hinges on circumstantial evidence and the alleged motive to commit the crime in question was some business rivalry between the deceased and the petitioner. He, on further instructions, has also not disputed that the sole material witness in the case in hand i.e. PW3 Gurbaksh Kaur (mother of the deceased) had not supported the case of the prosecution as a result of which she had been declared hostile. Learned State counsel has further apprised the Court that 23 witnesses out of 31 cited still remain to be examined and the next date fixed before the Trial Court is 01.09.2023 when some more prosecution witnesses are likely to be examined.

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

5. In the facts and circumstances as enumerated hereinabove, further incarceration of the petitioner would serve no useful purpose since the sole material witness i.e. mother of the deceased while

CRM-M-58514-2022 (O&M)

stepping into the witness box had failed to support the case of prosecution and besides her there was no other material witness remaining to be examined. This Court, therefore, deems it fit to extend the concession of bail to the petitioner.

6. 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.

16.08.2023

(MANJARI NEHRU KAUL)
JUDGE

Vinay

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