

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

224

CRM-M-59220-2022

Date of decision: 18.07.2023

Rajesh alias Bichhu

.....Petitioner

Versus

State of Haryana

.....Respondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present : Mr. Rakesh Kumar Lathwal, Advocate
for the petitioner.

Mr. Ranvir Singh Arya, Addl. A.G., Haryana.

MANJARI NEHRU KAUL, J. (ORAL)

1. The petitioner is seeking the concession of bail under Section 439 of the Code of Criminal Procedure, 1973 in case FIR No.297 dated 16.08.2021 under Section 302 of the IPC (Sections 148 and 149 of the IPC deleted lateron) registered at Police Station Gohana Sadar, District Sonipat.

2. While drawing the attention of this Court to the FIR in question it has been submitted by learned counsel for the petitioner that it had been alleged therein that the deceased was found lying dead by the side of a road and alongside him a liquor bottle, an empty glass along with some eatables etc. were also found. Later the complainant i.e. the brother of the deceased learnt that the petitioner along with 08 others had been consuming liquor with the deceased. On account of some verbal altercation between the deceased and the persons accompanying him including the petitioner, injuries were caused to the deceased, which led to his death. Learned counsel has further drawn the

attention of this Court to the deposition of the complainant which has been annexed as Annexure P-3 and submitted that therein the complainant had come forth with an altogether contrary version that at the given time when the deceased was inflicted injuries and subsequently found murdered, the petitioner was with him and his father at their residence. He submits that the complainant, who is the sole material witness in the case in hand did not support the case of the prosecution, he was declared hostile. Learned counsel has prayed that in the aforementioned facts and circumstances, as the petitioner has now been in custody for close to 02 years having been arrested on 17.08.2021 and only 05 prosecution witnesses stood examined, further incarceration of the petitioner would serve no useful purpose.

3. Per contra, learned State counsel while opposing the prayer and submissions made by the counsel opposite on instructions from ASI Vikas, has not been able to controvert that the complainant who was the sole material witness and who had spelt out the motive to commit the crime in question had been declared hostile during trial. However, he submits that the weapon of offence was recovered from the petitioner. Learned State counsel on instructions submits that the next date of hearing before the Trial Court is 19.09.2023 when some more prosecution witnesses have been summoned to depose.

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

5. The case in hand rests on circumstantial evidence. As not disputed by the learned State counsel, the complainant, who is the sole material witness having introduced the motive to commit the crime in

question, did not support the case of the prosecution as a result of which he was declared hostile. The trial is unlikely to conclude in the near future as 13 prosecution witnesses still remain to be examined. Therefore, in the facts and circumstances as enumerated hereinabove, this Court deems it fit to extend the concession of bail to the petitioner as his further incarceration would not serve any useful purpose.

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.

18.07.2023

Vinay

(MANJARI NEHRU KAUL)
JUDGE

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