

PardeepPetitioner

Versus

State of HaryanaRespondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present : Mr. Avtar Singh Sandhu, Advocate for
Mr. A.S.Shera, Advocate for the petitioner.

Ms. Trishanjali Sharma, DAG, Haryana.

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. 32 dated 12.02.2019 under Sections 346, 34 (302, 364, 201, 411, 404 and 120-B added lateron) of IPC, 1860 registered at Police Station Baroda, District Sonapat.

2. The following FIR (Annexure P-1) was registered by the grandfather of the deceased:-

“To,

The SHO Police Station Baroda

Sir, it is requested to you that on 21.01.2019, my grandson Vishesh alias Bholu took Rs. 15000 from home and he had gone for the shopping at Gohana with Pawan @ Dagad S/O Mahender, Satish @ Thuthu S/O Ranbir, Pradeep S/O Rampal, caste Jat, resident of Chhichdhana etc. My grandson did not come home till today. I suspect that these three have hidden my grandson in some secret place, I have searched myself but I could not found any clue till today. My grandson

should be searched who has not come to the above said village till today and a legal action should be taken against all the above said. He is fair in color, long Face, Height 6 Feet, Black long hair on head, beard on face, Yellow color Jersey which is Khaki from back side, Black Lowers and Red color hawai slipper.

SD/-RAMPAL, RAMPAL S/O DEEP CHAND,
village Chhichdhana, 8813069870.”

3. After a month of lodging of the aforementioned FIR, the dead body of the deceased was recovered. Learned counsel for the petitioner submits that there was no cogent evidence on record to link the petitioner with the alleged crime; motive to commit the murder of the deceased was also not forthcoming much less against the petitioner. It has been submitted that all this requires to be appreciated in the light of the material prosecution witnesses having been declared hostile during trial.

4. Learned counsel for the petitioner has further submitted that on 27.10.2021, the petitioner alongwith co-accused was extended the concession of bail by this Court. However, he absconded on one date of hearing before the trial Court as a result of which his bail bonds were cancelled. Subsequently, he surrendered back on 12.05.2023 and ever since then he had been languishing in custody. Learned counsel submits that in the aforementioned facts and circumstances, more so when there was no cogent evidence on record to link him with the murder of Vishesh alias Bholu, the innocence of the petitioner was writ at large and he deserved to be extended the concession of bail.

5. Learned State counsel while opposing the submissions made by learned counsel opposite, has not disputed that identically placed co-accused had also been extended the concession of bail alongwith petitioner on 27.10.2021. However, since the petitioner had absconded himself on one date, his bail bonds were cancelled and ever since his surrender on 12.05.2023, he had been in custody.

6. On a pointed query put to learned State counsel as to what motive had been attributed to the petitioner to commit crime or whether there was any witness of last seen or even for that matter any recovery effected from the petitioner to connect him with the murder in question, she, on instructions has fairly conceded that no cogent evidence in that regard had come during investigation and also all the three material witnesses had been declared hostile during trial. She has however submitted that the trial is nearing conclusion as 30 out of 34 prosecution witnesses already stand examined.

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

8. The instant case is based on circumstantial evidence. All the three material witnesses, as not disputed by learned State counsel, while stepping into the witness box, did not support the case of the prosecution as a result of which they were declared hostile. It has also not been controverted that no motive to commit the crime had been spelt out against the petitioner. Rather she has contended that during investigation,

the petitioner himself confessed to inflicting a blow on the head of the deceased.

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

10. Accordingly, the instant petition is allowed. The petitioner be admitted to bail on his furnishing bail/surety bonds 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.

11. Needless to add, in case the petitioner misuses the concession of bail granted to him, the State would be at liberty to seek cancellation of the same.

21.02.2024
Divyanshi

(MANJARI NEHRU KAUL)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No