

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

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**2024:PHHC:008984
CRM-M-2557-2024
Date of decision: January 23, 2024**

DEEPAK @ DHANDU ...Petitioner

Versus

STATE OF PUNJAB ...Respondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present: Mr. Arsh Bir, Advocate
for Mr. Nitesh Jhajhria, Advocate
for the petitioner.

Mr. Mohit Kapoor, Additional Advocate General, Punjab.

MANJARI NEHRU KAUL, J. (ORAL)

1. The instant petition has been filed under Section 439 of the Code of Criminal Procedure, 1973 for grant of regular bail to the petitioner in case FIR No.139 dated 11.11.2022 under Sections 304 and 34 of the Indian Penal Code, 1860, registered at Police Station Mehatpur, District Jalandhar (Rural).
2. Learned counsel for the petitioner *inter alia* contends that a totally false and fabricated version has been brought forth by the investigating agency while presenting challan before the Trial Court. Learned counsel while drawing the attention of this Court to the FIR which has been annexed as Annexure P-1, has submitted that it was alleged therein by the mother of deceased Gurmeet Singh that in the evening of 10.11.2022, he had left his house for playing volleyball in village *Vehra*, however, he did not return and on the following day in the morning his dead body was found lying by her other son with his face down. The dead body of the deceased bore some injury marks. Learned counsel

has further submitted that in the FIR no suspicion much less by way of any whisper had been raised against the petitioner and instead it had been stated that the deceased had been killed by unknown persons. Learned counsel has argued that once no suspicion had been raised against any person much less the petitioner, there could have been no occasion for him to have gone and made any extra judicial confession before one Raj Kumar, son of the Sarpanch, wherein after he was arrested and made an accused in the present case. It has also been submitted that the story as propounded by the investigating agency was that while the accused and the deceased were consuming intoxicants, there was some altercation between them on account of which the co-accused Jaswant Singh pushed the deceased against a wall as a result of which he sustained a head injury and died.

3. Learned counsel has submitted that even otherwise no specific allegation has been attributed to the petitioner, much less of inflicting any injury on the person of the deceased. He has further assisted that there is no cogent evidence to link the petitioner with the death of the deceased; he has now been in custody since 21.11.2022 and till date, only one witness out of 19 cited by the prosecution has been examined. It has been further submitted that despite bailable warrants having been issued on a few occasions to secure the presence of the complainant, she has not been appearing before the trial Court to get her evidence recorded. Learned counsel submits that in the aforementioned facts and circumstances, the petitioner cannot be made to languish in custody as there is no likelihood of the trial concluding in the near future.

4. *Per contra*, learned State counsel, while opposing the prayer made by the counsel opposite, has not been able to dispute the factual aspect of the role attributed to the petitioner. He submits that it was the co-accused Jaswant

Singh, who pushed the deceased against the wall, however, the petitioner was also present at the relevant time and had also made an extra-judicial confession before the son of the Sarpanch *qua* his participation in the crime in question. Learned State counsel has also not been able to dispute that despite the case being adjourned repeatedly before the trial Court, the complainant has not put in appearance to get her evidence recorded.

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

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

7. 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.

January 23, 2024
Jaspreet Kaur

(MANJARI NEHRU KAUL)
JUDGE

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