

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M No.3414 of 2023

Date of decision: 15th February, 2024

Rajesh Chaudhary

... Petitioner

Versus

UT Chandigarh

... Respondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present: Mr. Pankaj Nanhera & Mr. Rahul Gautam,
Advocates for the petitioner.

Mr. Anupam Bansal, Addl. PP for the respondent/UT.

Mr. Davinder Lubana, Advocate for the complainant.

MANJARI NEHRU KAUL, J. (ORAL)

1. The petitioner is seeking the concession of bail under Section 439 Cr.P.C. in case FIR No.162 dated 10.10.2022 under Sections 279, 337, 338, 304 (added later on) of the IPC registered at Police Station Sector 31, UT Chandigarh.

2. Learned counsel for the petitioner while reiterating the submissions made on the last date of hearing, has contended that he has been falsely implicated in the instant case, which, in fact is a case of accidental death; he has been wrongly charged under Section 304 of the IPC for being under the influence of alcohol at the time of the alleged accident. He has further submitted that the complainant, who is the most material witness, has time and again failed to get himself

examined before the trial Court by either not putting in an appearance or seeking an adjournment on some excuse or the other. It has still further been submitted that despite an assurance given by the learned counsel for the complainant to this Court on the last date of hearing that the complainant would positively appear before the trial Court on the next date of hearing to get himself examined, he had yet again excused himself out on grounds of his ill health. In support, learned counsel has placed on record the zimni order dated 02.02.2024 of the learned trial Court wherein it indeed does find mentioned that the complainant initially did not appear, however, when he appeared in the afternoon before the trial Court, he sought an adjournment on ground of his illness. However, there was no medical certificate produced by him in respect of his purported illness. Learned counsel has thus, made a vehement prayer that in the aforementioned facts and circumstances, the petitioner cannot be made to languish in custody for no fault of his, more so, since he has been in custody for more than one year, having been arrested on 04.11.2022, and till date only two prosecution witnesses out of the 24 cited having been examined. A prayer has therefore, been made for extending the concession of bail to the petitioner, as his further incarceration in the circumstances, would serve no useful purpose.

3. Per contra, learned State counsel assisted by the learned counsel appearing on behalf of the complainant, have opposed the prayer and submissions made by the counsel opposite. However, they

have not been able to dispute that the case is being adjourned repeatedly to await the appearance of the complainant and on the last date of hearing though the complainant did appear before the trial Court, however, he himself sought an adjournment on account of his “illness”.

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

5. The petitioner has been in custody for the last 15 months, having been arrested on 04.11.2022. The trial is unlikely to conclude in the near future as 22 prosecution witnesses still remain to be examined. Admittedly, and as not disputed, the complainant has time and again failed to put in appearance before the learned trial Court to get his evidence recorded. A perusal of the zimni orders, which have been placed on record today, also reveals that despite an assurance given by the complainant before this Court, that the complainant would positively get his evidence recorded before the trial Court, he had yet again failed to get himself examined.

6. In the facts and circumstances as enumerated hereinabove, the trial is unlikely to conclude in the near future. The petitioner is not stated to be involved in any other criminal case. 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.

7. Needless to add here, in case the petitioner misuses the concession of bail, the State would be at liberty to approach this Court for cancellation of bail in the instant case.

(MANJARI NEHRU KAUL)
JUDGE

February 15, 2024
rps

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