

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

223

CRM-M-3980-2024

Date of decision: 25.04.2024

Roshan @ Roshan Lal

.....Petitioner

Versus

State of Haryana

.....Respondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present : Mr. Raman Chawla, Advocate
for the petitioner.

Mr. Rajesh Gaur, Addl. A.G., Haryana.

Mr. Mohit Nehra, Advocate
for the complainant.

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.452 dated 04.08.2022 under Sections 148, 149, 365, 302 and 120-B of the IPC (Section 364, 216 of the IPC were added lateron) registered at Police Station Civil Lines Hisar, District Hisar.

2. Learned counsel for the petitioner inter alia contends that he has been falsely implicated in the instant case for allegedly conspiring in the murder of Lalit (hereinafter referred to as 'deceased'). While drawing the attention of this Court to the allegations levelled in the FIR annexed as Annexure P-1, it has been further submitted that a perusal of the contents of the FIR clearly reveals that no specific role much less any injury on the person of the deceased has been attributed to him. It has been still further submitted that no recovery of any

weapon much less weapon of offence has been effected from the petitioner. Learned counsel has asserted it is a matter of record that there was an ongoing matrimonial dispute between the deceased and his wife; the petitioner was roped in only because he happens to be a paternal uncle of the wife of the deceased. Learned counsel has also submitted that identically placed co-accused Sant Kumar @ Sant Lal, who too had been roped in the present FIR, being the maternal uncle of the wife of the deceased, and who too had not been attributed any role in the crime in question, much less any injury on the person of the deceased, had since been extended the concession of regular bail vide order dated 24.04.2023 (Annexure P-6). Learned counsel has lastly submitted that the petitioner has been in custody for the last more than 01 year and 08 months after being arrested on 10.08.2022, however, it is a matter of record that after the challan was presented and charges framed, none of the 37 prosecution witnesses have been examined till date. Learned counsel submits that in the aforementioned facts and circumstances, further incarceration of the petitioner would serve no useful purpose and he be thus enlarged bail.

3. Per contra, learned State counsel assisted by learned counsel for the complainant, while opposing the prayer and submissions made by learned counsel for the petitioner, has not been able to controvert that the petitioner has not been attributed any injury much less fatal on the person of the deceased; it has also not been disputed that the petitioner is identically placed as co-accused Sant Kumar @ Sant Lal, who has since been enlarged on bail. The stage of the trial has also not been disputed by the learned State on

instructions, who has submitted that 37 prosecution witnesses have been cited and none of them have been examined till date.

4. On a pointed query, learned State counsel, on instructions, has informed the Court that the petitioner is not involved in any other criminal case.

5. However, learned State counsel assisted by learned counsel for the complainant, have submitted that it had come during investigation that at the time of the occurrence in question, the petitioner, though not having inflicted any injury on the person of the deceased, was present with the co-accused, who had assaulted the deceased.

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

7. As per allegations levelled in the FIR, complainant Ankush stated that on 02.08.2022, while he was with his hospitalized grandmother, the deceased informed him he was in Hisar. Later that day, the deceased again contacted the complainant, expressing fear for his life from his in-laws, and asked the complainant to meet him near South By-pass Bridge, Kaimri Road, Hisar. Upon the arrival of the complainant at around 09:30 P.M. at South By-pass Bridge, he witnessed the deceased being accosted by around 18/20 armed individuals who forcibly took him away into a vehicle towards Tosham Road, Hisar. The complainant promptly informed the family of the deceased and also the police. The following day i.e. 04.08.2022, it was discovered that the deceased had died, with his body in Aadhar Hospital, Hisar. Subsequently during investigation, the petitioner was

arraigned as an accused; he was alleged to be present with the co-accused when the deceased was fatally assaulted.

8. Undisputedly, other than the presence of the petitioner having come to the fore during investigation, no other role has been attributed to him in the crime in question. The petitioner has clean antecedents. After his arrest on 10.08.2022, the trial has not proceeded beyond framing of charges as prosecution evidence is yet to commence. As many as 37 prosecution witnesses have been cited. Hence, in the aforementioned facts and circumstances and keeping in view the role attributed to the petitioner in the crime in question, this Court deems it fit to extend the concession of bail to the petitioner.

9. 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.

25.04.2024

Vinay

(MANJARI NEHRU KAUL)
JUDGE

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