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

CRM-M-6096-2024

Date of Decision: 09.04.2024

Rakesh

...Petitioner

VS.

State of Haryana

...Respondent

Coram : Hon'ble Mr. Justice N.S.Shekhawat

Present : Mr. Baltej Singh Sidhu, Senior Advocate with
Ms. Nidhi Sharma, Advocate,
Mr. Gurpreet Singh, Advocate,
Mr. H.S.Sidhu, Advocate,
Mr. Robin Singh Bhullar, Advocate and
Mr. Jashandeep Singh, Advocate, for the petitioner.

Ms. Sheenu Sura, DAG, Haryana.

N.S.Shekhawat J. (Oral)

1. The petitioner has filed the instant petition under Section 439 of the Cr.P.C. with a prayer to grant regular bail in case FIR No.81 dated 05.03.2021 registered under Sections 365, 379 of IPC (Sections 323, 457, 380, 506, 201, 302, 120-B, 34 of IPC were added later on), at Police Station Industrial Sector-29, District Panipat.

2. Learned Senior counsel for the petitioner contends that the petitioner has been falsely involved in the present case by his brother-in-law, Deepak with some ulterior motive. He further contends that the co-accused namely Ved Parkash @ Bed Parkash has already been granted the concession of regular bail by the trial Court. He further contends that in the present case, the post-mortem on the dead body of Roshi Devi, since deceased, was conducted, however, the cause of death in the present case is highly debatable. Still further, the entire prosecution case was based on the testimonies of Preeti, Simran and Deepak.

During the course of trial, the abovestated witnesses were examined as PW-5 Preeti, PW-6 Simran and PW-7 Deepak (Annexures P-5 to P-7) and the said witnesses have not supported the case of the prosecution. Learned counsel further submits that the petitioner was arrested in the present case on 08.03.2021 and is in custody for the last 03 years and 01 month. He further contends that only 11 witnesses, out of total 23 witnesses, have been examined so far and the conclusion of the trial may take quite a long time. Learned counsel for the petitioner has further relied upon the judgments passed by the Hon'ble Supreme Court in the matter of **“Ranjan Dwivedi Vs. CBI, through the Director General, 2012(8) SCC 495; 2012 (4) RCR (Criminal) 880”** and **“Gudikanti Narasimhulu and others v. Public Prosecutor”, AIR 1978 SC 429.**

3. On the other hand, learned State counsel has vehemently opposed the submissions made by learned counsel for the petitioner on the ground that the petitioner is the main accused and he had caused injuries on the person of Roshni Devi and she had succumbed to the injuries finally. However, she does not dispute the fact that the petitioner is in custody for the last more than 3 years and the petitioner is the first offender.

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

5. In the present case, the petitioner is continuing in custody since last 03 years and 01 month. No doubt, the allegations levelled against the present petitioner are serious in nature, however, the petitioner cannot be confined in jail as an under trial prisoner for an indefinite period. In fact, any detention for a longer period, without completion of trial by the trial Court, is violative of

Article 21 of the Constitution of India. Even the prosecution has been able to examine only 11 witnesses so far and there is a remote possibility of early conclusion of the trial befor the trial Court. Apart from that three material witnesses i.e. PW-5 Preeti, PW-6 Simran and PW-7 Deepak have not supported the case of the prosecution in the present case.

6. Thus, without commenting on the merits of the case, the present petition is allowed and the petitioner is ordered to be released on bail subject to his furnishing bail bonds/surety bonds to the satisfaction of the trial Court/Duty Magistrate/Chief Judicial Magistrate, concerned, subject to the following conditions:

- (i) The petitioner shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case, so as to dissuade him to disclose such facts to the Court or to any other authority.
- (ii) The petitioner shall remain present before the Court on the dates fixed for hearing of the case.
- (iii) The petitioner shall not absent himself from the Court proceedings except on the prior permission of the Court concerned.
- (iv) The petitioner shall surrender his passport, if any, (if already not surrendered), and in case he is not holder of the same, he shall swear an affidavit to that effect.
- (v) The petitioner shall also file his affidavit before the concerned Court, mentioning his ordinary place of residence and number of mobile phone, which shall be used by him during the pendency of the trial. In case of change of place of residence/mobile number, he shall share the details with the concerned Court/learned Trial Court.
- (vi) In case, the petitioner involves in any other criminal activity, during the pendency of the trial, it shall be viewed seriously.
- (vii) The concerned Court may insist on two heavy local sureties and may also impose any other condition, in accordance with law, while accepting the bails bonds and surety bonds of the petitioner.

09.04.2024.
hemlata

(N.S.SHEKHAWAT)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No