

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

217

2024:PHHC:045648

CRM-M-18914-2023

Date of decision: April 4th, 2024

Vishal

.....Petitioner

Versus

State of Haryana

.....Respondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present: Mr. Karandeep, Advocate
for Mr. Randeep S. Dhull, Advocate
for the petitioner.

Mr. Rajesh Gaur, Additional Advocate General, Haryana.

MANJARI NEHRU KAUL, J. (ORAL)

Petitioner is seeking the concession of bail under Section 439 of the Cr.P.C. in case FIR No.24 dated 14.03.2022 under Sections 302, 201, 120-B and 404 read with Section 34 of the IPC registered at Police Station GRP Hisar, District GRP Ambala Cantt.

2. Learned counsel for the petitioner, *inter alia*, contends that the petitioner has been in custody since 23.03.2022 in a case resting on circumstantial evidence. While drawing the attention of this Court to the FIR, learned counsel has submitted that few hours prior to the alleged occurrence, as per the complainant, he had seen his brother i.e. the deceased in the company of four boys, who allegedly were quarreling with him, however, soon thereafter, they all fled away from the spot. Later on, the deceased had returned to his house, however, in the morning, he was found dead outside in the street. Learned counsel has submitted that while lodging the FIR in question, the complainant had neither named the petitioner as being one of the four boys with whom the deceased had had a quarrel nor any suspicion was raised qua his

involvement in the murder in question. It has also been submitted that since it is a case resting on circumstantial evidence, no motive also had been spelt out against any of the accused including the petitioner to commit the murder. Learned counsel has still further submitted that it was after 11 days of the alleged occurrence that the complainant for the first time, while getting his statement recorded under Section 161 of the Cr.P.C., implicated the petitioner as an accused in the instant case. Learned counsel has submitted that however, while stepping into the witness box as PW-9, the complainant on whose supplementary statement, the petitioner was nominated as accused, did not support the case of the prosecution, as a result of which he was declared hostile. Learned counsel has submitted that in the facts and circumstances, further incarceration of the petitioner would serve no useful purpose as prosecution evidence is still underway and there is no likelihood of the trial concluding in the near future.

3. *Per contra*, learned State counsel while opposing the prayer and submissions made by the counsel opposite, has not been able to dispute that the petitioner was neither named in the FIR in question nor any suspicion raised qua his involvement in the alleged murder. It has also not been disputed that it was after 11 days of the occurrence that the complainant nominated the petitioner as being one of the perpetrators of the crime in question. Learned State counsel on further instructions from S.I. Krishan Kumar, has not disputed that the complainant while stepping into the witness box was declared hostile on account of he not supporting the case of the prosecution.

4. On a pointed query put to the learned State counsel as to what other material had been collected qua the involvement of the

petitioner in the crime in question, he has submitted that other than bloodstained clothes of the petitioner, no other material was in the possession of the police to link him with the crime in question.

5. Learned State counsel has further apprised the Court that only one prosecution witness remains to be examined and hence, there is every likelihood that the trial would not take much time to conclude now.

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

7. In the facts and circumstances as enumerated hereinabove, particularly in the wake of the sole material witness i.e. the complainant being declared hostile during trial, further incarceration of the petitioner, who concededly has no other criminal antecedents, would serve no useful purpose. Accordingly, the instant petition is allowed. The petitioner be admitted to bail 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.

April 4th, 2024
Puneet

(MANJARI NEHRU KAUL)
JUDGE

Whether speaking/reasoned : Yes
Whether reportable : No