

2024:PHHC:165377



IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CRM-M No.21269 of 2024
Date of Decision:11.12.2024

Dinesh

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MRS. JUSTICE MEENAKSHI I. MEHTA

Argued by:- Mr. Rakesh Dhiman, Advocate
for the petitioner.
(joined through Video-Conferencing)

Mr. Viney Phogat, DAG, Haryana
for the respondent-State.

MEENAKSHI I. MEHTA, J.

By way of the instant petition, the petitioner has made 2nd attempt to seek the relief of regular bail in the criminal case arisen out of FIR No.268 dated 30.08.2019 as registered at Police Station Asauda, District Jhajjar, under Section 302 read with Section 34 IPC. It is worth-while to mention here that the petition bearing CRM-M No.19111 of 2021, as preferred by the petitioner earlier for seeking the same relief, had been dismissed by this Court vide the detailed order, passed on 06.08.2021.

2. Shorn and short of unnecessary details, the allegations, as levelled by the complainant-informant namely Harish in the subject FIR, are that the petitioner and his co-accused caused injuries to his (complainant's)



father named Ram Kanwar, which proved fatal for him.

3. Replies dated 03.07.2024 & 12.08.2024 and the Status-Reports dated 11.11.2024 & 21.11.2024 (by way of the affidavits of the Assistant Commissioner of Police, Bahadurgarh, District Jhajjar) have already been filed on behalf of the respondent-State.

4. I have heard learned counsel for the petitioner as well as learned State counsel in the present petition and have also gone through the file carefully.

5. Learned counsel for the petitioner has contended that after the dismissal of the afore-mentioned first bail petition of the petitioner on 06.08.2021, his (petitioner's) co-accused Amit has been extended the relief of regular bail vide the order Annexure P-2, as passed by the Co-ordinate Bench on 22.02.2024 and moreover, the petitioner is behind the bars since 01.09.2019 and in these circumstances, he deserves the relief, as prayed for in the instant petition.

6. Per contra, learned State counsel has argued that the petitioner happens to be the prime accused in the criminal case under reference as he had caused the fatal injuries to the deceased and in view of the gravity of the offence as committed by him (petitioner), this petition be dismissed.

7. So far as the contention regarding the above-named co-accused of the petitioner having been granted the relief of regular bail vide order Annexure P-2 is concerned, it is pertinent to mention here that the Co-ordinate Bench has specifically observed in afore-referred order that learned counsel for the State could not put-forth any incriminating material connecting the



petitioner therein (Amit) to the offence and out of 18 prosecution witnesses, only 08 witnesses had been examined by that time and the trial would take considerable time to conclude whereas in the present case, in para No.8 (preliminary submissions) in the above-mentioned Reply dated 12.08.2024, it has categorically been deposed that the petitioner had suffered a disclosure statement and in pursuance thereof, he had got the handle of the hand-pump, as used by him in causing the injuries to the deceased, recovered. Thus, it becomes evident that the roles attributed to the petitioner and his afore-said co-accused (Amit) in the alleged commission of the offence, are not on the same footing and moreover, as mentioned in para No.14 of the Status-Report dated 21.11.2024, only one prosecution witness is left to be examined and hisailable warrants have been issued by the trial Court. It has been held by the Apex Court in **Megh Singh Vs. State of Punjab AIR 2003 Supreme Court 3184** that *“circumstantial flexibility, one additional or different fact may make a world of difference between conclusions in two cases or between two accused in the same case. Each case depends on its own facts and a close similarity between one case and another is not enough because a single significant detail may alter the entire aspect. It is more pronounced in criminal cases where the backbone of adjudication is fact based.”* In view of these observations, it becomes crystal clear that the petitioner cannot claim the relief of regular bail on the ground of parity.

8. Then, as regards the contention qua the period of custody as undergone by the petitioner, it is again essential to point it out here that in para No.16 in the above-referred Status-Report, it has been deposed that the



petitioner had caused injuries on the head of the deceased with the afore-mentioned handle of the hand-pump which had resulted in his death and in view of this fact, mere above-described period of the incarceration of the petitioner does not suffice at all to extend the relief of regular bail to him and even otherwise, as mentioned earlier, only one prosecution witness, now, remains to be examined by the trial Court, meaning thereby that the trial in the case is nearing its conclusion.

9. As a sequel to the fore-going discussion and keeping in view the gravity of the offence/crime as alleged to have been committed by the petitioner, this Court is of the considered opinion that he (petitioner) does not deserve the concession of regular bail. Resultantly, the petition in hand stands dismissed accordingly.

11th December, 2024
pooja

(MEENAKSHI I. MEHTA)
JUDGE

Whether speaking/reasoned: Yes
Whether Reportable: No