

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

234

2024:PHHC:059208
CRM-M-19795-2024 (O&M)
Date of decision: April 30, 2024

ANIL @ VICKY

...Petitioner

Versus

STATE OF HARYANA

...Respondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present: Mr. Anupam, Advocate
for the petitioner.

Mr. Rajesh Gaur, Additional Advocate General, Haryana
with Inspector Rishipal.

MANJARI NEHRU KAUL, J. (ORAL)

1. The instant petition has been filed under Section 439 Cr.P.C. for grant of regular bail to the petitioner in case FIR No.182 dated 25.05.2022 (Annexure P-1) under Sections 302, 148, 149 of the Indian Penal Code, 1860 (and Section 201 and 120-B IPC added later on), registered at Police Station Sadar Narwana, Jind.
2. Learned counsel for the petitioner *inter alia* contends that as per the allegations levelled in the FIR in question, which has been annexed as Annexure P-1, deceased-Rajender was fatally assaulted by co-accused Sewapati along with her sister Kalawati, Pardeep @ Deepa, petitioner and 4 others. Learned counsel submits that as per the allegations levelled in the FIR, the petitioner had telephonically informed the complainant that he along with co-accused had murdered the deceased. Learned counsel submits that a false version having been brought forth against the petitioner is apparent from the fact that while stepping into the witness-box, the most material witness i.e. the complainant, who had detailed the role of the petitioner in the crime in question,

had not supported the case of the prosecution, as a result of which, he was declared hostile. It has been further submitted that the other material witness in the case in hand i.e. PW-2 Baljinder, who too is a nephew of the deceased, did not support the case of the prosecution, as a result of which, he too was declared hostile.

3. Learned counsel for the petitioner further submits that in the circumstances, in the absence of any clear-cut motive coming forth *qua* the petitioner to participate in the crime in question, which rests on circumstantial evidence, further incarceration of the petitioner, who has clean antecedents, would serve no useful purpose as 34 prosecution witnesses still remain to be examined. It has been further submitted that other than the alleged telephone call made by the petitioner to the complainant about his role in the murder of Rajender, there was no other cogent evidence on record, which could link him with the alleged crime. Learned counsel for the petitioner has submitted that the petitioner has now been in custody since 21.06.2022 and the next date fixed before the learned trial Court is 04.06.2024, hence, in the circumstances, he be enlarged on bail as the trial would take considerable time to conclude.

4. *Per contra*, learned State counsel, while opposing the prayer and submissions made by the counsel opposite, has not been able to controvert the submissions made by the counsel for the petitioner with respect to both the material witnesses, including the complainant, having turned turtle during the course of trial, and having been declared hostile. It has also not been disputed by the learned State counsel that there is no witness of last seen to the occurrence in question. It has however been submitted that a recovery of an iron rod (weapon of offence) had been effected from the petitioner. On a pointed query put to the learned State counsel as to what was the stage of trial, he on

instructions, has not disputed that all the material witnesses in the case in hand i.e. the complainant and PW-2 stand examined. On a further query, it has also not been disputed by the learned State counsel that the petitioner has clean antecedents and is not involved in any other criminal case.

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

6. The petitioner has been in custody since 21.06.2022 in a case which primarily hinges on circumstantial evidence. The motive spelt out by the complainant was some apprehension in the mind of the accused party that the deceased would transfer his property in the name of his nephews, however, the complainant did not support the case of the prosecution, as a result of which, he was declared hostile. The trial is unlikely to conclude in the near future as 34 prosecution witnesses still remain to be examined.

7. In the facts and circumstances as enumerated hereinabove, this Court thus, deems it fit to extend the concession of regular bail to the petitioner.

8. The petition as such is allowed, and the petitioner be 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.

April 30, 2024
Jaspreet Kaur

(MANJARI NEHRU KAUL)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No