



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

CRM-M No.33005 of 2024
Date of decision: 21st October, 2024

Anil Kumar
... Petitioner

Versus

State of Haryana
... Respondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present: Mr. Randhir S. Hooda, Advocate for the petitioner.
Ms. Trishanjali Sharma, Dy. Advocate General, Haryana
for the respondent/State.

MANJARI NEHRU KAUL, J. (ORAL)

1. The petitioner is seeking the concession of bail under Section 439 Cr.P.C. in case FIR No.249 dated 14.09.2023 under Section 302 of the IPC registered at Police Station Bhondsi, District Gurugram.
2. Learned counsel for the petitioner submits that the false implication of the petitioner in the murder of his wife finds due credence from the fact that while stepping into the witness box, the complainant (brother of the deceased) did not support the case of the prosecution as a result of which he was declared hostile. Learned counsel has submitted that the petitioner, in fact, had no role to play in the unnatural death of his wife; he found his wife hanging from the ceiling and it was he, who then removed her to the hospital. Learned counsel has asserted that in case the petitioner was the perpetrator of the crime in question, he would

not have chosen to remove his wife to the hospital. He has thus submitted that in the circumstances, further incarceration of the petitioner, who has now been in custody for more than 1 year having been arrested on 14.09.2023, would serve no useful purpose as 15 prosecution witnesses still remain to be examined.

3. Per contra, learned State counsel has vehemently opposed the prayer and submissions made by the counsel opposite, by drawing the attention of this Court to the allegations levelled in the FIR, which stands reproduced hereunder:

"TO SHO SAHAB, P.S. Bhondsi. I - Mukesh is resident of District Merut, U.P. and presently residing in Bharat Colony, Gali no. 5, Faridabad along with my family for the last 30 years. We are two brothers and one sister. My sister namely Seema got married to the Anil and a daughter was born out of their wedlock and my sister was residing at Vatika Kunj along with her family and she had told me many times that her husband use to beat her. On 14.09.2023, at around 02:30 am, Anil called me and told that Seema was ill and called me to his place. I went to my sister's house along with my family, where we found that my sister was lying on a bedsheet and she was covered with a bedsheet and I found marks of nails on her neck and her pulse was not working. I am suspecting that the Anil killed her by strangulation. Therefore, you are requested for legal action."

4. Learned State counsel, on instructions, has submitted that although the complainant i.e. brother of the deceased, was declared hostile during trial, however, he was not a witness to the occurrence in

question; the occurrence in question had taken place inside the house of both, the petitioner and the deceased. As per the post-mortem report, the cause of death was asphyxia on account of manual strangulation. It has been argued by the learned State counsel, on instructions, that had it been a suicidal death, the post-mortem report would have clearly reflected the said fact. It has also been submitted that besides the aforementioned, during the post-mortem of the deceased, finger nail marks were found on the back of the deceased, which further nailed the petitioner in the murder of his wife. Learned State counsel has submitted that in the circumstances, even though the complainant had been declared hostile, the evidence on record, when appreciated in its entirety, left no manner of doubt that it was a case of homicidal killing, more so, when it is the case of the petitioner himself that he was present inside the house at the time of the alleged occurrence. She, on further instructions, has submitted that only two material witnesses remain to be examined, i.e. the Investigating Officer and the Doctor who conducted the post-mortem of the deceased and all the remaining witnesses are formal in nature. Hence, there is every likelihood that the trial would not take much time to conclude.

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

6. In the facts and circumstances as enumerated herein above, and after taking into account the totality of the circumstances and the evidence gathered by the Investigating Agency, this Court does not deem it fit to extend the concession of bail to the petitioner. The petition

as such stands dismissed. 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.

(MANJARI NEHRU KAUL)
JUDGE

October 21, 2024

rps

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