

2024:PHHC:112000



IN THE HIGH COURT FOR THE STATES OF PUNJAB AND
HARYANA AT CHANDIGARH

285

CRM-M-36443-2024 (O&M)
Date of decision: 29.08.2024

Vijay @ Deva ...Petitioner

Versus

State of Haryana ...Respondent

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present:- Mr. Pardeep Balyan, Advocate
for the petitioner.

Mr. Neeraj Poswal, AAG, Haryana.

MANISHA BATRA, J. (Oral)

1. This petition has been filed by the petitioner under Section 439 Cr.P.C. seeking regular bail in case bearing FIR No. 480 dated 13.08.2022, registered under Sections 302, 449 of IPC and Section 25 of the Arms Act, 1959 at Police Station Ganaur, District Sonapat.
2. Brief facts of the case relevant for the purpose of disposal of this petition are that on 12.08.2022, on receipt of an information from Community Health Centre, Ganaur regarding dead body of one Sonia being brought therein as a case of fire short injury, a police party headed by SI Rajesh Kumar immediately rushed towards the spot and obtained *ruqa*. The complainant Rajesh Kumar, who was present there, submitted a written complaint there alleging that the victim Sonia was his sister, who was married with one Ajay, about 12 years ago. Ajay had expired about 06 months ago and thereafter, her marriage was performed with the petitioner, who was brother of

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aforesaid Ajay. The petitioner used to suspect the integrity of complainant's sister and harass her. They had tried to prevail good sense upon him several times. He informed that on the same day, at about 08:30 PM, when his sister was going towards the house of some neighbourer, she had been killed by the petitioner. After registration of the FIR, investigation proceedings were initiated. Inquest proceedings and postmortem of the dead body of the victim were conducted. The petitioner was arrested on 30.12.2022. Presently, he is facing trial for commission of aforementioned offences.

3. It is argued by learned counsel for the petitioner that the petitioner has been falsely implicated in this case. Investigation has been completed. *Challan* stands presented. The complainant and two material witnesses, namely PW-3 Tika Ram and PW-4 Satish, have been examined before the trial Court and they have not supported the prosecution version. Trial is likely to take time. There is no eye-witness to the occurrence and the case rests upon the circumstantial evidence. A false recovery of a country made pistol has been planted upon him. The petitioner is suffering from various ailments. He requires surgical intervention as he is unable to eat due to pain in his upper jaw. His further detention would not serve any useful purpose. Hence, it is prayed that the present petition deserves to be allowed.

4. Status report has been filed by the respondent State. It is submitted therein and learned State counsel has argued that keeping in view the gravity of the allegations as levelled against the petitioner, who has committed gruesome crime of killing his own wife, he does not deserve to be released on bail. It is also submitted that the petitioner has criminal

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antecedents since 04 criminal cases have been registered against him. Therefore, he has argued that the present petition is liable to be dismissed.

5. I have heard learned counsel for the parties and have also gone through the material placed on record very carefully.

6. The petitioner is alleged to have killed his own wife by firing a shot at her with a country made pistol. The postmortem examination report of the victim confirms the fact that the death had occurred due to sustaining fire arm injury. However, the complainant Rajesh Kumar, who is brother of the victim, as well as two material witnesses, i.e. PW-3 Tika Ram and PW-4 Satish, in their respective sworn depositions, as recorded before the trial Court, have not supported the prosecution version at all. Copies of their statements as well as of complainant have been placed on record as Annexures P-2 and P-3 and a perusal of the same reveals that all of them have stated that some unknown person had shot fire upon the victim with some weapon and her death occurred due to that reason. None of them supported the prosecution version with regard to complicity of the petitioner in the subject crime. Keeping in view the nature of evidence which has come on record so far before the trial Court in the form of statements of the complainant as well as aforesaid two witnesses, the period of incarceration of the petitioner, coupled with the fact that there is no eye-witness to the occurrence and the case rests upon circumstantial evidence, I am of the considered opinion that no useful purpose would be served by keeping him in custody anymore.

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7.

Accordingly, the present petition is allowed and the petitioner is ordered to be released on regular bail, subject to his furnishing personal/surety bonds to the satisfaction of the trial Court/Duty Magistrate concerned.
8.

It is made clear that any observation made herein above is only for the purpose of deciding the present petition and the same shall have no bearing on the merits of the case.

29.08.2024

(MANISHA BATRA)
JUDGE

Waseem Ansari

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