



IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

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CRM-M-39955-2024 (O&M)

Date of decision: 23.08.2024

Rinku alias Bonny

.....Petitioner

Versus

State of Haryana

.....Respondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present : Mr. Aditya Sanghi, Advocate and
Mr. Himanshu Garg, Advocate
for the petitioner.

Mr. Gagandeep Singh Chhina, AAG, Haryana.

MANJARI NEHRU KAUL, J. (ORAL)

1. The petitioner is seeking the concession of bail under Section 483 of the BNSS, 2023 in case FIR No.278 dated 10.05.2023 under Sections 120-B/147/148/149/201/302/328/342 of the IPC registered at Police Station City Mandi Dabwali (Sirsa), District Sirsa.

2. Learned counsel for the petitioner contends that the petitioner was neither named in the FIR in question nor any role attributed to him in the murder of Sikender (hereinafter referred to as 'deceased'). Learned counsel in support has drawn the attention of this Court to the FIR which has been annexed as Annexure P-2. Learned counsel has further submitted that the petitioner came to be nominated subsequently in the disclosure statement allegedly suffered by co-accused Saroj, who stated that the petitioner was present with them at the time of the alleged occurrence and had also participated by



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inflicting injuries upon the deceased. Learned counsel has submitted that a false and fabricated case having been planted upon the petitioner is evident from the fact that the mother of the deceased, at whose instance the FIR in question came to be registered had been declared hostile during trial. It has still further been argued that even otherwise the petitioner had no motive to commit the murder in question much less connive with the co-accused who allegedly assaulted the deceased to death with awls, knives etc. It has been, thus, prayed that in the aforementioned facts and circumstances since the sole material witness i.e. the complainant already stands examined, further incarceration of the petitioner, who has now been in custody for more than a year, having been arrested on 28.05.2023, would serve no useful purpose, as 16 witnesses still remain to be examined.

3. Per contra, learned State counsel while opposing the prayer made by learned counsel for the petitioner, on instructions, 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 crime in question. However, learned State counsel has reiterated the allegations levelled in the FIR which stands reproduced hereinunder:-

“Statement of Santosh Kumari W/o Piare Lal, R/o Ward No.15, Bablu M.C. Wali Gali, Mandi Dabwali, aged 60 years. It is stated that I am a resident of the above-mentioned address and I am a labourer. My husband has died. I have 4 children, i.e. three daughters and one son, whose name is Sikandar, aged 40 years. All four of my children are married and my son Sikandar also has two children. My son Sikandar used to consume some drugs etc. My son was having visiting terms with Saroj Rani W/o Darshan, caste Suniar, resident of Harbhagwan Wale Aarey Ki Gali, Prem Nagar, Mandi Dabwali for the last 7/8 years. Yesterday on 09.05.2023 in the morning, my son



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Sikandar went away by telling me that he has to bring money borrowed by Saroj and her son Bobby, and he has not returned till date. Today on 10.05.2023, at around 11.00 am, my niece Reshma W/o Ravi, resident of Ward No.13, Dabwali came to my house and told me that my son Sikandar is tied by Saroj Rani w/o Darshan Singh and Bobby/Darshan Singh Soni, resident of Prem Nagar, Dabwali in their house and Saroj, Bobby and some other people are causing injuries to Sikandar with knives, awls (Sooa) and other weapons with intention to kill him. When I asked my niece Reshma, who told you about this, she said that she had received a phone call from a boy named Sony. I reached at the house of Saroj Rani with other people by sitting on Reshma Devi's scooter. I saw that Saroj Rani, her son Bobby and other people were taking away my son from their home in an e- rickshaw. I started calling other people and reached at Government Hospital, Dabwali, where Saroj, her son Bobby and other persons left my son Sikandar at the hospital and fled away. When I and others went inside and asked the doctor, the hospital staff said that said persons brought the boy named Sikandar dead and left him in a dead condition. When I saw the body of my son, there were injury marks on his body, due to which my son died. Saroj Rani, Bobby and others have killed my son Sikandar due to not giving the money borrowed from Sikandar and due to some other enmity. Legal action may kindly be taken against them. The statement has been recorded and heard the same is admitted to be correct. Sd/- Santosh. Santosh after admitting her statement to be correct. Sd/- Santosh attested by Naresh Kumar ASI PS City Dabwali, Dt. 10.05.2023."

4. Learned State counsel has also not been able to dispute that the mother of the deceased at whose instance the FIR in question was registered has been declared hostile during trial. However, he submits that while stepping into the witness box during her examination in chief the complainant had initially supported the case of the prosecution and it was only during her cross examination that she turned turtle as a result of which she was declared hostile by the prosecution.

5. I have heard learned counsel for the parties and perused the



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material placed on record.

6. The petitioner, as not disputed by the learned State, came to be nominated as an accused pursuant to a disclosure statement made by co-accused Saroj. Be that as it may, the petitioner even as per the disclosure statement has not been attributed fatal injuries but only kick blows blows on the deceased and only his presence has been shown along with the co-accused. The sole material witness has already been examined, and as conceded by the learned State counsel, has been declared hostile. Hence, further incarceration of the petitioner would serve no useful purpose as there can be no likelihood of the petitioner influencing the witnesses. In the facts and circumstances as enumerated hereinabove, this Court deems it fit to extend the concession of bail to the petitioner.

7. Accordingly, the instant petition is allowed. The petitioner be admitted to bail on his furnishing bail/surety bonds 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.

8. Pending applications, if any, stand disposed of.

23.08.2024

Vinay

(MANJARI NEHRU KAUL)

JUDGE

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