

Neutral Citation No.2024:PHHC:031641

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-41911 of 2023
Reserved on:04.03.2024
Pronounced on: 05.03.2024

Hans Raj @ Raju

.....Petitioner

Vs.

State of Haryana

.....Respondent

CORAM:- HON'BLE MR. JUSTICE DEEPAK GUPTA

Present:- Mr. B.S. Beniwal, Advocate for the petitioner.

Mr. Sumit Jain, Addl. AG, Haryana.

DEEPAK GUPTA, J.

By way of present petition filed under Section 439 Cr.P.C., petitioner prays for his release on regular bail in case FIR No.0647 dated 26.12.2022 registered under Sections 323/341/506 IPC (Section 304 IPC added later on), at Police Station Sadar Fatehabad, District Fatehabad.

2. FIR was lodged on the complaint of Lakhwinder Kaur, as per which, her father Desh Raj had expired in 2013. Two of her elder sisters are married. Presently, she along with her sister Devender Kaur and two brothers Om Parkash, and Hans Raj @ Raju (present petitioner) reside with their mother Neka Bai (deceased) in a rented accommodation. It was alleged that on 25.12.2022 at about 09:30 PM, her brother Hans Raj @ Raju – petitioner demanded an amount of ₹10,000/- from her and the mother, which they refused. Petitioner started quarrelling with them, picked up a wooden stick lying there and hit on the head of his mother Neka Bai, who fell on the ground and became unconscious. At that time, Om Parkash and Devender Kaur were not present at home. Neka Bai was taken to Government

Hospital, Fatehabad and after first aid, she was referred to Jindal Hospital,

Hisar, where during treatment, she expired on 31.12.2022. During investigation, proceedings under Section 174 Cr.P.C were conducted. Petitioner was arrested on 04.01.2023. After completing the investigation, challan was presented in the Court.

3. It is contended by learned counsel that petitioner has been falsely implicated; that sole eye witness of the case, namely, Lakhwinder Kaur, the complainant has not supported the prosecution case; that petitioner is in custody for the last more than 01 year and 01 month and that the trial may take time to conclude and so, he be allowed bail.

4. Learned State Counsel has opposed the bail petition by pointing out towards the gravity of the offence and the fact that the petitioner is accused of committing culpable homicide not amounting to murder of his mother Smt. Neka Bai by hitting wooden stick on her head. However, it is conceded by learned State Counsel that complainant of the case, namely, Lakhwinder Kaur has not supported the prosecution version during trial.

5. I have considered submissions of both the sides and have perused the record.

6. As per the FIR version, complainant Lakhwinder Kaur, petitioner Hans Raj, two other siblings Davender Kaur and Om Parkash; along with deceased used to reside together. At the time of occurrence, Om Parkash and Devender Kaur were not present. Meaning thereby, Lakhwinder Kaur was the only eye witness. In her testimony made on 17.05.2023 (copy Annexure P.2), she disclosed that on the date of occurrence, a person with muffled face entered her house and assaulted her; that when her mother tried to protect her, that assailant picked danda and hit on the head of her mother making her unconscious. She clearly stated that she could not identify that person who was with muffled face. The witness

was declared hostile and despite her lengthy cross-examination by the Public Prosecutor, nothing could be elicited so as to support the prosecution version.

7. Apart from above, petitioner is in custody for the last 01 year, 01 month and 27 days as per the custody certificate placed on record. He has no other criminal case pending against him.

8. Having regard to all the afore-said facts and circumstances, particularly, the fact that complainant – sole eye witness of the case has not supported the prosecution version; that the trial is likely to take long time to conclude and the custody period of the petitioner, no purpose shall be served by keeping the petitioner detained. Therefore, without commenting anything on the merits of the case, this petition is accepted. Petitioner is admitted to bail on his furnishing bail bonds and surety bonds to the satisfaction of learned trial Court/ Duty Magistrate concerned, on usual terms and conditions.

March 05, 2024
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(DEEPAK GUPTA)
JUDGE

Whether Speaking/reasoned	Yes/No
Whether Reportable	Yes/No