



IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

244

CRM-M-40703-2024

Date of decision: October 22nd, 2024

Suman

.....Petitioner

Versus

State of Haryana

.....Respondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present: Mr. Deepak Kohli, Advocate
for the petitioner.

Mr. Gagandeep Singh Chhina, Assistant Advocate General,
Haryana.

MANJARI NEHRU KAUL, J. (ORAL)

Petitioner is seeking the concession of bail under Section 439 of the Code of Criminal Procedure, 1973 in case FIR No.214 dated 03.09.2022 under Section 302, 34, 120-B of the IPC registered at Police Station Shahzadpur, District Ambala.

2. Learned counsel for the petitioner submits that the FIR in question was registered at the instance of Onkar Singh (*Sarpanch* of the village) against unknown persons. Subsequently, during investigation, as per the case of the prosecution, PW-4 Ankush Kumar (brother in law of deceased Sunil) purportedly made a statement and spelt out the motive to commit the crime in question. As per PW Ankush Kumar, the murder of the deceased had been committed after all the accused including the petitioner hatched a conspiracy; the petitioner was alleged to be in a live-in relationship with the deceased, who had been subjecting her to physical assault. Resultantly, the co-accused i.e. the

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petitioner's husband Pawan Kumar and her son Deepanshu assaulted the deceased to death with an iron pipe and thereafter, dumped his dead body in the bushes. Learned counsel has contended that PW-4 Ankush Kumar, who was the most material witness in the instant case as it is he who spelt out the motive to commit the crime, while stepping into the witness box had not supported the case of the prosecution, as a result of which he was declared hostile. Learned counsel has also submitted that the husband of the petitioner, who was attributed fatal injuries on the person of the deceased, has also been enlarged on bail. A prayer has, therefore, been made by the learned counsel for extending the concession of bail to the petitioner, who has now been in custody since 08.09.2022 and till date, only four prosecution witnesses stand examined. Hence, there is no likelihood of the trial concluding in the near future.

3. *Per contra*, learned State counsel while opposing the prayer and submissions made by the counsel opposite, on instructions, has not disputed that the most material witness in the instant case i.e. PW-4 Ankush Kumar has been declared hostile during trial. It has also not been disputed by the learned State counsel, on instructions, that other than PW-4 Ankush Kumar, no other material witness remains to be examined. The custody period as well as the stage of trial has not been disputed by the learned State counsel. However, it has been submitted that during investigation, one CCTV footage was collected by the investigating agency, wherein the deceased could be seen accompanying



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the petitioner’s husband and her son in a car, prior to the occurrence in question.

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

5. The case at hand hinges on circumstantial evidence. The witness, who spelt out the motive, was declared hostile during trial. Since the sole material witness stands examined, further incarceration of the petitioner in the above-mentioned facts and circumstances would serve no useful purpose as 27 prosecution witnesses still remain to be examined.

6. In the facts and circumstances as enumerated hereinabove, the instant petition is allowed. The petitioner be admitted to bail 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.

October 22nd, 2024
Puneet

(MANJARI NEHRU KAUL)
JUDGE

Whether speaking/reasoned : Yes
Whether reportable : No