

CRM-M-41166-2024

- 1 -

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

251

**CRM-M-41166-2024
Date of Decision: 03.10.2024**

Devender

..... Petitioner

Versus

State of Haryana

..... Respondent

CORAM : HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

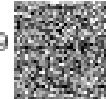
Present : Mr. Parveen Sharma, Advocate
for the petitioner.

Mr. Gagandeep Singh Chhina, AAG, Haryana.

MANJARI NEHRU KAUL, J. (Oral)

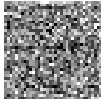
1. The present petition has been filed under Section 483 of BNSS, 2023 for grant of regular bail to the petitioner in case FIR No.248, dated 28.05.2022 registered under Sections 201, 302 IPC (later Section 34 IPC added), at Police Station Sonipat Sadar, District Sonipat.

2. Learned counsel for the petitioner submits that the petitioner's false implication in the present case is evident from the fact that as per the case of the prosecution itself, Anand (hereinafter referred to as deceased) left his house on the night of 26.05.2022 after he reportedly received a phone call from the petitioner and two others. It was not before 28.05.2022 that the FIR in question was registered, wherein the dead body of the deceased was found floating on a water body. It has been argued by the learned counsel that between 26th-28th May, 2022, strangely the family of the deceased neither made any efforts to find out about his whereabouts nor any missing report was made

**CRM-M-41166-2024****- 2 -**

by them. Even after the dead body was recovered on 28.05.2022, the brother and mother of the deceased did not raise any suspicion qua the involvement of the petitioner or the co-accused in the murder of the deceased. It was only three days later i.e. on 31.05.2022, the brother of the deceased made a statement under Section 161 Cr.PC wherein he stated that the deceased had left his house on 26.05.2022 on receiving a telephonic call from the petitioner and co-accused, and on account of some previous quarrel the deceased had been then done to death by the accused. Learned counsel has submitted that it is a matter of record that while stepping into witness box both the material witnesses i.e. brother and mother of the deceased had not supported the case of the prosecution as a result of which they both were declared hostile. In support of his contentions, learned counsel has drawn the attention of this Court to the depositions of both the brother and mother of the deceased, which have been annexed as Annexures P-4 and P-5. A prayer has, therefore, been made in the aforementioned facts and circumstances that the petitioner be enlarged on bail moreso since all 7 material witnesses stand examined with 18 witnesses still remaining to be examined, coupled with the fact that the petitioner has now been in custody for almost 2½ years having been arrested on 31.05.2022.

3. Per contra, learned State counsel while opposing the prayer and submissions made by counsel opposite has not disputed the factual aspect of the submissions made by the counsel opposite. Learned State counsel, on instructions, has not disputed that both the material witnesses stand examined and had been declared hostile during trial. However, it has been submitted on further instructions that a screw driver, which was allegedly used for the murder of the deceased, along with a mobile handset, and blood stained clothes had been recovered from all the accused, including the petitioner.



CRM-M-41166-2024

- 3 -

4. I have heard learned counsel and perused the material on record.
5. As per the case of the prosecution, the murder in question took place on account of some previous enmity between the deceased and accused including the petitioner. The motive of committing crime had been spelt out by the brother of the deceased while getting his statement recorded under Section 161 of the Cr.P.C. However, as not disputed not only the brother of the deceased but even his mother were declared hostile during trial as they did not support the case of the prosecution.
6. In the given facts and circumstances, as enumerated hereinabove, the instant petition is allowed as the trial will take considerable time to conclude. The petitioner is admitted to bail on his furnishing bail bonds/surety bonds to the satisfaction of the trial Court/Duty Magistrate concerned.
7. 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. Needless to say, in case the petitioner misuses the concession of bail granted to him, the State would be at liberty to seek cancellation of the same.

(MANJARI NEHRU KAUL)
JUDGE

03.10.2024
monika

Whether speaking/reasoned	Yes/No
Whether Reportable	Yes/No