

204 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-43314-2024

Date of Decision: 09.09.2024

SHUBHAM @ VICKY

...Petitioner

Vs.

STATE OF HARYANA

...Respondent

CORAM:- HON'BLE MRS. JUSTICE NIDHI GUPTA

Present: Mr. Mayank Goyal, Advocate for the petitioner.

NIDHI GUPTA, J. (Oral)

The petitioner has filed the 3rd petition under Section 483 of The Bharatiya Nagarik Suraksha Sanhita, 2023 (BNSS) for grant of regular bail in FIR No. 196 dated 13.10.2020, registered at Police Station Ding, District Sirsa under Sections 147, 149, 302, 328, 452 of the Indian Penal Code, 1860 [during investigation Section 147, 149, 302, 328, 452 of the IPC deleted and Section 306/34 of the IPC added] (Annexure P-1).

2. Learned counsel for the petitioner, *inter alia*, submits that the present FIR has been registered on the basis of statement made by the husband of the deceased wherein it has been alleged that the petitioner along with 07 other accused had forcibly administered some sulphas tablets to the deceased and had thus, killed her. Initially, the present FIR was registered under Section 302 IPC, however, upon investigation report under Section 173 Cr.P.C. (Annexure P-3), was filed only against the petitioner and one other co-accused under Sections 306 and 34 IPC.

3. Learned counsel for the petitioner further submits that the petitioner has already undergone almost 04 years custody as an undertrial.

It is further argued that as per Section 479 of BNSS, it is stipulated that the

maximum period for which undertrial prisoner can be detained can extend only upto 1/3rd of the maximum period of imprisonment specified for offences under which undertrial is charged. It is submitted that therefore, under law, the petitioner is entitled to bail, as the petitioner had already undergone almost 04 years of detention. Thus, it is prayed that he may be released on regular bail.

4. Notice of motion.

5. On the asking of Court, Ms. Deepshikha Chauhan, AAG, Haryana, accepts notice on behalf of respondent-State; whereas Mr. Arpandeeep Narula, Advocate, who is present in Court accepts notice on behalf of the complainant, and submits his memorandum of appearance, which is taken on record.

6. Learned counsel for the State on instructions from PSI Gagandeep, submits that in the present case the material witnesses including the complainant stands examined as PW-1, whose testimony is at Annexure P-10 wherein the complainant had supported the prosecution case. It is further pointed out that trial in the present case has been stayed by the Coordinate Bench of this Court vide order dated 02.08.2024 passed in CRR-776-2022 (Annexure P-8), in the petition filed by the respondent seeking summoning of the other co-accused who were exonerated vide the challan. Learned counsel for the State has filed custody certificate dated 06.09.2024 which is taken on record, as per which the petitioner has been in custody as an undertrial for a period of 03 years 09 months and 04 days. Perusal of the custody certificate shows that no other case is pending against the petitioner.



7. Learned counsel for the complainant opposes the prayer made by the counsel for the petitioner and submits that learned trial Court as well as this Court vide order dated 04.03.2024 passed in CRM-M-22882-2023, have declined the prayer of the co-accused of the petitioner for grant of regular bail.

8. I have heard learned counsel for the parties. Without commenting on merits of the case, however, keeping in view the totality of the facts and circumstances of the case, including: (a) custody period of 03 years 09 months and 04 days undergone by the petitioner as an undertrial; (b) perusal of the custody certificate reveals that there is no other case against the petitioner; (c) material witnesses including the complainant already stands examined, therefore, conclusion of trial will take considerable time and no useful purpose would be served by further detention of the petitioner; and (d) the provision of Section 479 of BNSS, the present petition is **allowed**.

9. The petitioner-Shubham @ Vicky s/o Chhabil Dass, is ordered to be released on regular bail on his furnishing bail/surety bonds to the satisfaction of the trial Court/Chief Judicial Magistrate/Duty Magistrate, concerned.

10. However, it is made clear that nothing stated above shall be construed as an expression of opinion on the merits of the case.

(NIDHI GUPTA)
JUDGE

09.09.2024

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