



IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

238

CRM-M-45196-2024 (O&M)

Date of decision: 04.11.2024

Hari Kesh @ Haria

.....Petitioner

Versus

State of Haryana

.....Respondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present : Mr. Keshav Pratap singh, Advocate
for the petitioner.

Mr. Gagandeep Singh Chhina, AAG, Haryana.

MANJARI NEHRU KAUL, J. (ORAL)

1. The petitioner in the instant (second) petition is seeking the concession of bail under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023 in case FIR No.620 dated 07.10.2021 under Sections 302, 201, 34 of the IPC and Sections 25, 27/54-59 of the Arms Act, 1959 (Section 34 of the IPC and Section 27 of the Arms Act added lateron) registered at Police Station Shivaji Colony, Rohtak, District Rohtak.

2. Learned counsel for the petitioner submits that the instant case hinges on circumstantial evidence; the deceased who was working as a driver with one Thakur Prashad Shukla was found murdered on Jhajjar-Rohtak Road. Learned counsel has further submitted that as per the case of the prosecution the motive to commit the crime in question was to snatch the car of the deceased, however, the deceased was found lying murdered inside the very same car and hence, the story with



CRM-M-45196-2024 (O&M)

respect to the motive propounded by the prosecution fell flat in the face. It has also been submitted that the petitioner came to be nominated as an accused in the present case on the basis of his own confession made before the police in another FIR No.411 dated 07.11.2021 under Sections 398/401 of the IPC and Sections 25(1-B)a, 54, 59A of the Arms Act, registered at Police Station Adampur. Learned counsel has also asserted that there was no other material collected by the investigating agency to connect the petitioner with the alleged murder. It has also been submitted that after the petitioner was arrested on 01.01.2022 challan was presented on 28.03.2022 followed by framing of charges on 04.03.2024, however, till date not even a single prosecution witness out of the 28 cited had been examined even though non-bailable warrants had been issued on a couple of dates to secure the presence of the prosecution witnesses. Learned counsel has, therefore, submitted that in the light of the aforementioned facts and circumstances, the petitioner's false implication in the present case was easily discernible coupled with the fact that there was no likelihood of the trial concluding in the near future.

3. Per contra, learned State counsel while opposing the prayer made by learned counsel for the petitioner, on instructions, has not disputed that it is a case resting on circumstantial evidence; it has also not been disputed that other than the petitioner's own confession made before the police in FIR No.411 dated 07.11.2021, there was no other evidence collected by the investigating agency to link the petitioner with the crime in question. It has also not been disputed that the motive



CRM-M-45196-2024 (O&M)

to commit the crime was to snatch the vehicle which was being driven by the deceased on the fateful day, however, the said vehicle was found at the spot along with the dead body of the deceased. Learned State counsel, however, has submitted that the recovery of a motorcycle on which the petitioner along with the co-accused had come to the scene of crime, besides recovery of the weapon of offence was effected from co-accused Deepak. Learned State counsel on instructions has not disputed the custody period of the petitioner as well as the stage of trial. It has been submitted that the next date fixed before the learned Trial Court is 06.11.2024 for prosecution evidence. Learned State counsel has, however, argued that since the petitioner has criminal antecedents including two cases registered against him under Section 302 of the IPC, his involvement in the murder in question cannot be completely ruled out.

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

5. The petitioner has been in custody for a period of more than two and a half years having been arrested on 01.01.2022 in a case resting on circumstantial evidence. Other than his own confession made by the petitioner in another case, no material has been collected by the investigating agency to link him with the crime in question. The trial would take considerable time to conclude as none of the 28 prosecution witnesses have been examined till date. In the facts and circumstances as enumerated hereinabove, this Court deems it fit to extend the concession of bail to the petitioner.



CRM-M-45196-2024 (O&M)

6. 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.

7. Needless to add, in case the petitioner misuses the concession of bail granted to him, the State would be at liberty to seek cancellation of the same.

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

04.11.2024

Vinay

(MANJARI NEHRU KAUL)
JUDGE

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