



CRM-M-46306-2024

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

CRM-M-46306-2024

Date of Decision: 18.12.2024

Anil

..... Petitioner

Versus

State of Haryana

.....Respondent

CORAM: HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present: Mr. Sunil Goswami, Advocate for the petitioner.

Mr. Ramesh Kumar Ambavta, AAG, Haryana.

Rajesh Bhardwaj, J. (ORAL)

1. Petitioner has approached this Court by way of present petition praying for granting him regular bail in case FIR No.363 dated 23.12.2019, under Sections 302, 34, 450 and 120-B IPC (Section 120-B IPC added lateron), registered at Police Station Kosli, Rewari.

2. As per facts of the case, Seema wife of Surender Singh lodged a complaint with the Police on the allegations that her husband Surender Singh was working as a Clerk in the District Courts, Nuh. On 21.12.2019 at about 9:00 p.m., she and her son Nikhil went to sleep and her husband was also sleeping in the store room. At about 11:00 p.m. in the night, she heard cry of her husband and saw 3-4 persons beating her husband. She and her son raised alarm and on hearing this, the assailants escaped. They shifted her husband to the Government Hospital, Kosli, where, the Doctor declared him brought dead. Request was made to take legal action against the unknown persons, who attacked her husband. On the statement of the complainant, the FIR was registered and the investigation commenced. During the



investigation, complicity of the petitioner was surfaced and he was arrested on 06.01.2020. He approached the Court of learned Additional Sessions Judge, Rewari praying for grant of regular bail, however, on hearing both the sides, learned Court declined the same vide order dated 12.07.2024. Hence, the petitioner is before this Court by way of filing the present petition praying for grant of regular bail.

3. It has been vehemently contended by counsel for the petitioner that it is apparent from the FIR that no accused has been named in the same and thus, it was a blind murder. He submits that it is after the due deliberation, son of the deceased Nikhil was projected as an eye witness by the prosecution. It is submitted that as per the investigation, it transpired that the petitioner had illicit relation with the wife of the deceased and at his behest the husband of the complainant was murdered. It is submitted that it has come in the investigation that the petitioner had given rod blows on the hands of the deceased. He submits that fatal blow as per the case of the prosecution, was given by the co-accused, namely, Vikas. It is submitted that co-accused Manish has already been granted bail by this Court vide order dated 27.02.2024 as he had completed incarceration period of 03 years 10 months. He submits that the petitioner is behind bars from the last about five years and till date, the trial has not been concluded. He submits that the petitioner has no criminal antecedent and thus, in the facts and circumstances of the case when his custody is about five years, he deserves to be granted bail.

4. Learned State counsel has opposed the submissions made by counsel for the petitioner. He has submitted that the petitioner is the main



accused, who had illicit relations with the wife of the deceased. He submits that it is the petitioner, who hatched the conspiracy for the elimination of deceased Surender Singh. It is submitted that son of the deceased, Nikhil had identified the petitioner. On instructions from ASI Naresh, he submits that out of total 32 prosecution witnesses, 20 prosecution witnesses have been examined. He has placed on record the custody certificate of the petitioner.

5. After hearing counsel for the parties and perusing the record, it is apparent that the petitioner is behind bars since 06.01.2020. The FIR was registered against the unknown person. The custody certificate produced by the State counsel would show that the petitioner has completed under trial period of 04 years 11 months 08 days as on 17.11.2024. It further reflects that the petitioner is not involved in any other case. Co-accused Manish has already been granted bail by this Court vide order dated 27.02.2024. As submitted before this Court, the petitioner had given rod blow on the hands of the deceased. Appreciation of the evidence primarily lies within the domain of trial, which is pending before it. It cannot be denied that the petitioner is behind bars from the last about five years and the prosecution has examined only 20 prosecution witnesses, out of 23 witnesses, which includes the material witnesses. In the opinion of this Court, long incarceration of the petitioner itself entitles him for the grant of bail.

6. The veracity of the allegations would be assessed only after the conclusion of the trial and on the appreciation of evidence to be led by both the parties before the trial Court. This Court would refrain itself from commenting anything on the merits of the case. The trial of the case will take sufficient long time. Keeping in view the arguments raised by both the

sides and perusing the record, this Court is of the opinion that learned counsel for the petitioner succeeds in making out a case for grant of regular bail to the petitioner.

7. Accordingly, the present petition is allowed and the petitioner is ordered to be released on bail on his furnishing bail/surety bonds to the satisfaction of the concerned trial Court/Duty Magistrate.

8. Nothing said herein shall be treated as an expression of opinion on the merits of the case.

18.12.2024 sharmila		(RAJESH BHARDWAJ)
		JUDGE
	Whether Speaking/Reasoned :	Yes/No
	Whether Reportable :	Yes/No