

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

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**2024:PHHC:021741
CRM-M-55807-2023
Date of decision: February 15, 2024**

POOJA AND ANOTHER
...Petitioners

Versus

STATE OF HARYANA
...Respondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present: Mr. Vikas Bishnoi, Advocate
for the petitioners.

Ms. Trishanjali Sharma, Deputy Advocate General, Haryana.

MANJARI NEHRU KAUL, J. (ORAL)

1. The instant petition has been filed under Section 439 of the Code of Criminal Procedure, 1973 for grant of regular bail to the petitioners in case FIR No.162 dated 10.03.2023 (Annexure P-1) under Section 302 read with 34 of the Indian Penal Code, 1860, registered at Police Station Azad Nagar, District Hisar.
2. Learned counsel for the petitioners *inter alia* contends that the petitioners having been falsely implicated in the case in hand, stands substantiated from the fact that the sole material witness i.e. Vidya Devi (complainant), who allegedly overheard petitioner No.1-Pooja calling up petitioner No.2-Anil on the fateful day to complain about the alleged threats given by the deceased to petitioner No.1, had been declared hostile during trial. Learned counsel submits that even otherwise, there was no cogent evidence on record collected by the investigating agency, which in any manner could connect the petitioners with the murder of Rajesh. It has been further submitted that 15 prosecution witnesses still remain to be examined, hence, there is no

likelihood of the trial concluding in the near future. Learned counsel for the petitioners has thus prayed for being enlarged on bail as their further incarceration in the aforementioned facts and circumstances would serve no useful purpose.

3. Per contra, learned State counsel while opposing the prayer and submissions made by the counsel opposite, on instructions, has not disputed that the sole material witness in the case in hand was complainant-Vidya Devi, who during trial had not supported the case of the prosecution, as a result of which, she was declared hostile. Learned State counsel has, however, submitted that the deceased was the son of the complainant and brother of petitioner No.1 and hence, it could have been for reasons but obvious that the complainant during trial had resiled from from the earlier statement made at the time of the lodging of the FIR in question. However, at the same time, she has not disputed that other than the suspicion raised by the complainant while lodging the FIR *qua* the likely involvement of the petitioners in the murder of Rajesh, no other evidence, much less of last seen, had been collected by the investigating agency.

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

5. Petitioner No.1 has been in custody since 11.03.2023 while petitioner No.2 has been in custody since 19.03.2023. The case in hand rests on circumstantial evidence. As not disputed by the learned State counsel, other than the mere suspicion raised by the complainant *qua* the involvement of the petitioners in the crime in question, no cogent evidence had been collected during trial. As already observed, the complainant was declared hostile during trial. In the circumstances, further incarceration of the petitioners would serve no useful purpose.

6. In the facts and circumstances as enumerated hereinabove, this Court deems it fit to extend the concession of bail to the petitioners. Accordingly, the instant petition is allowed; the petitioners be admitted to bail 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.

February 15, 2024
Jaspreet Kaur

(MANJARI NEHRU KAUL)
JUDGE

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