



IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

248

CRM-M-53728-2024 (O&M)

Date of decision: 12.11.2024

Bobby

.....Petitioner

Versus

State of Haryana

.....Respondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present : Mr. Gurdarshan Singh Sidhu, Advocate
for the petitioner.

Mr. Gagandeep Singh Chhina, AAG, Haryana.

MANJARI NEHRU KAUL, J. (ORAL)

1. The petitioner is seeking the concession of bail under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023 in case FIR No.278 dated 10.05.2023 under Sections 201, 302, 342, 34 of the IPC (Sections 120-B, 147, 148, 149, 328 of the IPC added and Section 34 of the IPC deleted lateron) registered at Police Station City Mandi Dabwali, District Sirsa.

2. Learned counsel for the petitioner submits that the petitioner's false implication in the FIR in question is evident from the fact that the sole material witness, Santosh Kumari (mother of the deceased) and who allegedly also witnessed the crime, while stepping into the witness box as PW1, did not support the case of the prosecution as a result of which she was declared hostile. It has been further submitted that since the sole material witness i.e. the mother of the deceased/complainant has already been examined and has not



CRM-M-53728-2024 (O&M)

supported the case of the prosecution, further incarceration of the petitioner, who has no other criminal antecedents, would serve no useful purpose as 18 prosecution witnesses still remain to be examined.

3. Per contra, learned State counsel while opposing the prayer made by learned counsel for the petitioner, on instructions, has not disputed that the alleged eye witness and complainant Santosh Kumari, while stepping into the witness box had not supported the case of the prosecution resulting in her being declared hostile. Stage of the trial has also not been disputed by the learned State counsel. However, learned State counsel has reiterated the allegations levelled in the FIR annexed as Annexure P-1 and which stands reproduced hereinunder:-

“Statement of Santosh Kumari W/o Piare Lal, R/o Ward No.15, Bablu M.C. Wali Gali, Mandi Dabwali, aged 60 years. It is stated that I am a resident of the above-mentioned address and I am a labourer. My husband has died. I have 4 children, i.e. three daughters and one son, whose name is Sikandar, aged 40 years. All four of my children are married and my son Sikandar also has two children. My son Sikandar used to consume some drugs etc. My son was having visiting terms with Saroj Rani W/o Darshan, caste Suniar, resident of Harbhagwan Wale Aarey Ki Gali, Prem Nagar, Mandi Dabwali for the last 7/8 years. Yesterday on 09.05.2023 in the morning, my son Sikandar went away by telling me that he has to bring money borrowed by Saroj and her son Bobby, and he has not returned till date. Today on 10.05.2023, at around 11.00 am, my niece Reshma W/o Ravi, resident of Ward No.13, Dabwali came to my house and told me that my son Sikandar is tied by Saroj Rani w/o Darshan Singh and Bobby/Darshan Singh Soni, resident of Prem Nagar, Dabwali in their house and Saroj, Bobby and some other people are causing injuries to Sikandar with knives, awls (Sooa) and other weapons with intention to kill him. When I asked my niece Reshma, who told you about this, she said that she had received a phone call from a boy named Sony. I reached at the house of Saroj Rani with other people by sitting on Reshma Devi's scooter. I saw that Saroj Rani, her son Bobby and other people were taking away my son from their home in an e-rickshaw. I started calling other



CRM-M-53728-2024 (O&M)

people and reached at Government Hospital, Dabwali, where Saroj, her son Bobby and other persons left my son Sikandar at the hospital and fled away. When I and others went inside and asked the doctor, the hospital staff said that said persons brought the boy named Sikandar dead and left him in a dead condition. When I saw the body of my son, there were injury marks on his body, due to which my son died. Saroj Rani, Bobby and others have killed my son Sikandar due to not giving the money borrowed from Sikandar and due to some other enmity. Legal action may kindly be taken against them. The statement has been recorded and heard the same is admitted to be correct. Sd/- Santosh. Santosh after admitting her statement to be correct. Sd/- Santosh attested by Naresh Kumar ASI PS City Dabwali, Dt. 10.05.2023. Police proceedings: Today on 10.05.2023, MHC informed at police station that Sikander S/o Pyare Lal, R/o ward No. 15, Mandi Dabwali, has been brought dead to the Hospital Dabwali. Please come at Government Hospital, Dabwali for legal proceedings. Therefore, I ASI along with ESI Angrej Singh No. 713/Sirsa reached at Government Hospital Dabwali. Santosh along with other people was present there outside the Hospital. Her above-mentioned statement was recorded and the same was read over to her and she signed the same in Hindi after admitting it to be correct and it was attested by me. According to the contents of the statement and medical memo the offence under section 342/302/201/34 of IPC, is made out. Therefore a memo is being sent to the police station for registration of the case through ESI Angrej Singh No.713/sirsa. The number of the case may be informed after its registration. The special report shall be sent to the Illaqa Magistrate and senior officers and the team of the crime scene shall be sent to the place of occurrence. I, ASI am busy in investigation at Government Hospital. Today at Police station - Government Hospital, Dabwali. Sd/- Naresh Kumar ASI, P:S City Mandi Dabwali, Dt. 10.05.2023, Time 15:25. Today at Police Station- On receipt of the memo at the police station through ESI Angrej Singh No.713/Sirsa, an FIR No. 278, Dt 10.05.2023, U/s 342/302/201/34 IPC P:S City Mandi, Dabwali has been registered and the copy of the file along with original memo is being sent to the 1.0 through the carrier ESI and he team of crime scene has informed to reach at the spot. The copies of the FIR are being prepared and are being sent to the Illaqa Magistrate and senior officers as special reports.”

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



CRM-M-53728-2024 (O&M)

5. The petitioner has been in custody since 28.05.2023. It has not been disputed by the learned State counsel on instructions that the sole material witness during trial did not support the case of the prosecution and was declared hostile. In the facts and circumstances as enumerated hereinabove, this Court deems it fit to extend the concession of bail to the petitioner.

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.

12.11.2024

Vinay

(MANJARI NEHRU KAUL)
JUDGE

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