

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

242

2024:PHHC:044138

CRA-S-3437-2023

Date of decision: April 02, 2024

ARCHIT @ DHEERAJ

...Appellant

Versus

STATE OF HARYANA

...Respondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present: Mr. Manish Soni, Advocate
for the appellant.

Mr. Rajesh Gaur, Additional Advocate General, Haryana
with Inspector Sandeep Kumar.

MANJARI NEHRU KAUL, J. (ORAL)

1. The instant appeal has been filed against the impugned order dated 03.10.2023 dismissing the application of the appellant for grant of regular bail filed under Section 439 of the Code of Criminal Procedure, 1973 in case FIR No.400 dated 03.07.2019 for offences under Sections 302, 201, 34 IPC and Section 3 of the Scheduled Caste and Scheduled Tribe (Prevention of Atrocities) Act, 1989, registered at Police Station Sector 10-A, District Gurugram.

2. Learned counsel for the appellant *inter alia* contends that the appellant has been falsely implicated in the instant case and he has now been in custody for almost 5 years, having been arrested on 05.07.2019. Further, the false implication of the appellant in the case at hand finds credence from the fact that all the material witnesses including the complainant, while stepping into the witness box, did not support the case of the prosecution, as a result of which, they were all declared hostile. Learned counsel has still further submitted that since 14 prosecution witnesses still remain to be examined, further incarceration of the appellant in the aforementioned facts and

circumstances would serve no useful purpose as the trial would still take considerable time to conclude.

3. Mr. Dharamvir Sharma, Advocate has put in an appearance on behalf of the complainant and filed his Vakalatnama in the Court today, which is taken on record subject to just exceptions.

4. Learned State counsel, on instructions from Inspector Sanjay Kumar and assisted by learned counsel for the complainant, has not disputed that all the material witnesses including the complainant had not supported the case of the prosecution during trial and were declared hostile. Learned State counsel however has submitted that it was the appellant, who in connivance with co-accused Shivani, telephonically called the deceased to the place of occurrence and inflicted fatal injuries on his person and thereafter, fled away.

5. On a pointed query put to the learned State counsel, he has conceded that it is not a case of eye-witness account and no motive was spelt out either in the FIR or during her deposition in Court, by the complainant against the appellant to commit the murder in question nor any motive to commit the murder was spelt out by the other witnesses during trial.

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

7. In the facts and circumstances as enumerated hereinabove, since all the material witnesses stand examined and were declared hostile, further incarceration of the appellant, who as per the learned State counsel has clean antecedents, would serve no useful purpose. Therefore, this Court deems it fit to extend the concession of bail to the appellant. Accordingly, the instant appeal is allowed; the appellant, who has been in custody since 05.07.2019, be admitted to bail to the satisfaction of the trial Court/Duty Magistrate concerned.

8. 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.

April 02, 2024
Jaspreet Kaur

(MANJARI NEHRU KAUL)
JUDGE

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