



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

CRM-M No.56179 of 2024
Date of decision: 21st November, 2024

Sonu @ Khalnayak
... Petitioner

Versus

State of Haryana
... Respondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present: Mr. Sahil Chaudhary, Advocate for the petitioner.
Mr. Rahul Mohan, Sr. Dy. Advocate General, Haryana
for the respondent/State.

MANJARI NEHRU KAUL, J. (ORAL)

1. The petitioner is seeking the concession of bail under Section 483 read with Section 528 of BNSS in case FIR No.330 dated 16.08.2022 under Sections 302, 201, 148, 149 of the IPC registered at Police Station Sector 14, District Panchkula, Haryana.
2. Learned counsel for the petitioner submits that the petitioner has been in custody since 11.05.2023, and despite the passage of considerable time, the trial has not concluded, with only 5 prosecution witnesses examined so far. It has been further contended that while the alleged crime is based on an eye-witness account and the name of the petitioner was mentioned in the FIR in question, the complainant, who is the brother of the deceased and allegedly witnessed the murder in question, along with another eye witness, Vikas, did not support the case

of the prosecution during trial. As a result, both these material witnesses were declared hostile.

3. Learned counsel for the petitioner has further asserted that this development casts serious doubts on the veracity of the allegations against the petitioner, suggesting his false implication in the case. Furthermore, it has been pointed out that co-accused Kiran and Sumit @ Vicky have already been extended the concession of bail by this Court vide orders dated 08.11.2023 and 02.09.2024 (Annexures P-8 and P-9, respectively), primarily on the ground that the material witnesses, including the complainant and Vikas, turned hostile during trial.

4. Per contra, learned counsel for the State, while opposing the prayer and submissions made by the counsel opposite, has drawn the attention of this Court to the allegations outlined in the FIR, which stands reproduced hereunder:

First Information Contents (Attach separate sheet if require) "that Sunny @ Sony son of Munesh Pal resident of 1805 Balmiki Mohalla, Khera Rajiv Colony, Sector 17, Panchkula age 21 years having mobile number 7743019790 stated that he is resident of above intensioned address and doing the work of cleaning, there are two brothers his brother Rajesh @ Kaku was age 19 years and was doing the work of labourer his brother Kaku had dispute around one month ago with Vicky @ Sumit due to the said dispute Vicky and his family members were having grudge today at about 2.00 PM in front of our house my brother was sitting at that time from the third house from a house are neighbor Raju Khalnayak, Vicky Sumit son of Sh.Raju, Samma son of Vikram, Anil son of Ram Phul, were taking my brother while beating him and dragging him after hearing the voice of my brother, my uncle Manju, my

*another uncle Vikas ram after them, thereafter Raju who was having gandasi in his hand, Anil was having knife, Sampal was having knife and Vicky was also having knife in their hand they took my brother in side by dragging him, while we were watching they all from the weapons in their hand, behind the head near the waist gave injuries, at that time there was **Sonu Khalnayak**, Rohit, Gugu who is son-in-law of Raju and Kiran who is daughter of Raju were also having sharp edged weapons in their hands they also gave injuries on the back of the head and waist and my brother was bleeding and got unconscious inside their house on the information given by us police reached at the spot and in the unconscious state my injured brother was taken to Government hospital, Sector 6, Panchkula where the doctor : referred my brother to PGI Chandigarh, where at PGI Chandigarh the concerned doctor declared my brother as dead, my brother had been given injuries through sharp edged weapons by Raju Khalnayak, Vicky @ Sumit, Rohit, **Sony Khalnayak**, Anil, Sampal @ Sanjay, Gugu, Kiran, due to which he has died. On the spot, when crowd gathered, all these persons fled away. The death of my brother has been caused by Raju Khalnayak through injuries given by sharp edged weapons. Action may be taken against all those persons named by me”*

5. The learned State counsel, on instructions, has also submitted that although the complainant and PW Vikas were declared hostile as they did not support the case of the prosecution, however, another eye-witness PW Satish had supported the case of the prosecution. Learned State counsel, on instructions, has however, not disputed the custody period of the petitioner as well as the factum of 15 other prosecution witnesses remaining to be examined.

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

7. It is undisputed that the FIR was lodged at the instance of the brother of the deceased, who allegedly witnessed the crime in question. However, as conceded by the learned State counsel, both the complainant and another eye witness, PW Vikas, did not support the case of the prosecution during their deposition and were declared hostile.

8. All material witnesses have been examined with 15 additional witnesses remaining to be examined. Given the present stage of the trial, there is no likelihood of its conclusion in the near future. Moreover, with the material witnesses already being examined, there appears to be no reasonable apprehension that the petitioner could tamper with evidence or intimidate/influence the remaining witnesses. Therefore, in the aforementioned facts and circumstances, further incarceration of the petitioner would serve no useful purpose. The petition, as such, is allowed and the petitioner is admitted to bail to the satisfaction of the trial Court/Duty Magistrate. 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.

(MANJARI NEHRU KAUL)
JUDGE

November 21, 2024
rps

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