

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

218

2024:PHHC:059847

CRM-M-61856-2023

Date of decision: May 1st, 2024

Rajat @ Rakshak

.....Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present: Mr. Amit Dhawan, Advocate
for the petitioner.

Mr. Amit Rana, Senior Deputy Advocate General, Punjab.

MANJARI NEHRU KAUL, J. (ORAL)

Petitioner is seeking the concession of bail under Section 439 of the Code of Criminal Procedure, 1973 in case FIR No.186 dated 31.12.2021 under Sections 307, 341, 323, 324, 34 (Section 302 added later on) of the IPC registered at Police Station Division No.7, District Police Commissionerate Jalandhar.

2. On the last date of hearing, learned State counsel had been directed to place on record a copy of the admission card of the deceased in SGL Hospital, Jalandhar, where he was initially taken following the occurrence in question by his son Deepak i.e. the complainant, since learned counsel for the petitioner had pointed out to some glaring contradictions appearing in the deposition of PW-4 Dr. Indreet Kaur qua the cause of injuries sustained by the deceased.

3. Learned counsel for the petitioner has drawn the attention of this Court to the cross-examination of PW-4 Dr. Indreet Kaur, wherein she categorically deposed that as per records of her hospital, the deceased had suffered injuries in a roadside accident when he was hit by

an unidentified vehicle and thereafter, he was admitted in the hospital in a gasping state.

4. Learned State counsel, on instructions, has informed the Court that when the deceased was admitted in the SGL Hospital soon after the occurrence in question at 8:16 PM, as per records, it indeed stood noted therein that he had been hit by an unidentified vehicle.

5. Learned counsel for the petitioner has thus, reiterated the submissions made on the last date of hearing i.e. a roadside accident had been twisted by the complainant to give it a colour of homicide; it has also been submitted by the learned counsel that in view of the glaring and material contradiction between the prosecution version of it being a well planned murder and the medical records and the deposition of PW-4 Dr. Indreet Kaur on the other hand, the petitioner being innocent is abundantly clear. It has been further submitted that since the petitioner has now been in custody for more than 3½ years having been arrested on 31.12.2021, and only nine witnesses including the complainant having been examined, out of the 25 cited by the prosecution, further incarceration of the petitioner would serve no useful purpose.

6. *Per contra*, learned State counsel while opposing the prayer and submissions made by the counsel opposite has conceded that there is some discrepancy and contradiction in the medical records of the deceased, as to how he sustained the injuries on his person, however, the complainant, who is none other than the son of the deceased, while lodging the FIR in question, had specifically alleged that the petitioner and the co-accused had inflicted multiple injuries on the person of the deceased, though during his deposition before the trial Court, he had

admittedly not attributed the fatal injuries to the petitioner. Learned State counsel, on further instructions, has not disputed the stage of the trial and also the factum of the sole material witness in the case in hand i.e. the complainant having been examined.

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

8. In the facts and circumstances as enumerated hereinabove, further incarceration of the petitioner, who has now been in custody since 31.12.2021, would serve no useful purpose as there is no likelihood of the trial concluding in the near future. The petitioner is not stated to be involved in any other criminal case. Accordingly, the instant petition is allowed. The petitioner be admitted to bail to the satisfaction of the trial Court/Duty Magistrate concerned.

9. 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.

May 1st, 2024
Puneet

(MANJARI NEHRU KAUL)
JUDGE

Whether speaking/reasoned : Yes

Whether reportable : No