

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

228

2024:PHHC:026227

CRM-M-62736-2023

Date of decision: February 26th, 2024

Abhishek Kumar Das

.....Petitioner

Versus

State of Haryana

.....Respondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present: Mr. Pardeep Sihmar, Advocate
for the petitioner.

Ms. Trishanjali Sharma, Deputy Advocate General,
Haryana.

MANJARI NEHRU KAUL, J. (ORAL)

This is a second petition filed by the petitioner seeking the concession of regular bail under Section 439 of the Code of Criminal Procedure, 1973 in case FIR No.160 dated 26.05.2020 under Sections 201, 120-B, 302 of the Indian Penal Code, 1860 registered at Police Station Rai District Sonipat.

2. Learned counsel for the petitioner, *inter alia*, contends that the false implication of the petitioner in the crime in question is evident from the fact that both the material witnesses i.e. PW-5 Ashok Kumar (Factory Chowkidar) as well as PW-8 Badri Dass (brother of the deceased), while stepping into the witness box, had not supported the case of the prosecution, as a result of which they both were declared hostile. In support, learned counsel has drawn the attention of this Court to their respective depositions, which have been annexed as Annexure P-3 (colly.). Learned counsel has submitted that both these material witnesses, who were witnesses of last seen, had categorically deposed to

the contrary that they had not seen the deceased accompanying either of the accused on the fateful day i.e. the day after which the petitioner went missing. Learned counsel has thus submitted that in the circumstances, since both these material witnesses had not supported the case of the prosecution and 15 prosecution witnesses still remain to be examined, his further incarceration would serve no useful purpose.

3. *Per contra*, learned State counsel while opposing the prayer and submissions made by the counsel opposite, has submitted that the petitioner was in an illicit relationship with the wife of the deceased and it was on account of their relationship, the petitioner, in connivance with the co-accused i.e. wife of the deceased, committed the murder of the deceased. She has reiterated that the deceased was last seen in the company of the petitioner soon before he went missing. Subsequently, the dead body of the deceased was recovered from the roadside bundled into a white bag. She has however not been able to dispute that other than these two material witnesses i.e. Ashok Kumar and Badri Dass, there was no other witness to connect the petitioner with the murder of the deceased. She has also not disputed that the motive to commit the crime had been spelt out by both these material witnesses, who had since been declared hostile.

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

5. The petitioner has been in custody since 12.07.2020. As on date, all the material witnesses stand examined, 15 prosecution witnesses still however remain to be examined. Thus, there is no likelihood of the trial concluding in the near future; there can be no

apprehension of the petitioner tampering with any evidence or trying to influence/intimidate any of the prosecution witnesses.

6. In the facts and circumstances as enumerated hereinabove, the instant petition is allowed. The petitioner be admitted to bail 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 say, in case the petitioner misuses the concession of bail granted to him, the State would be at liberty to seek cancellation of the same.

February 26th, 2024
Puneet

(MANJARI NEHRU KAUL)
JUDGE

Whether speaking/reasoned : Yes
Whether reportable : No