



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

220

CRM-M-63188-2023

Date of decision: 23.07.2024

Lalit alias Lalit Kumar alias Sheru Pandit

.....Petitioner

Versus

State of Haryana

.....Respondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present : Mr. Vikas Bishnoi, 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 439 of the Cr.P.C. in case FIR No.567 dated 09.11.2021 under Sections 302, 120-B and 34 of the IPC registered at Police Station City Fatehabad, District Fatehabad.

2. Learned counsel for the petitioner has reiterated his submissions made on the last date of hearing that after the charges were framed on 29.04.2022 except for getting the examination in chief of PW-1 Vinod (complainant) recorded, no other witness had been examined till date; after the examination in chief of PW-1 Vinod had been recorded, his cross-examination could not be conducted on account of his non-appearance. It has also been brought to the notice of this Court by the learned counsel that despite issuance ofailable warrants, the complainant for reasons best known to him had failed to



CRM-M-63188-2023

appear before the learned Trial Court to get himself cross examined.

3. On merits, learned counsel for the petitioner has argued that in the initial version, the complainant had named one Pali and two others as being responsible for the murder of his brother, however, strangely on the following day, the complainant came up with a contrary version while recording his supplementary statement under Section 161 of the Cr.P.C.; he exonerated Pali and two others initially named in the FIR in question, and instead named the petitioner and two others as being the persons who had conspired and then murdered his brother i.e. the deceased. It has also been submitted that since it is case resting on circumstantial evidence, however, no motive has even been attributed against the petitioner for conspiring with the co-accused to murder the deceased.

4. Per contra, learned State counsel while opposing the prayer made by learned counsel for the petitioner, on instructions from PSI Naresh Kumar, has not disputed the submissions made by the counsel opposite with respect to the stage of trial, however, learned State counsel has drawn the attention of this Court to the fact that an application under Section 319 of the Cr.P.C. had been moved by the prosecution for summoning additional accused which had been dismissed and had delayed the conclusion of the trial. Learned State counsel on instructions has further not disputed that initially the FIR in question had been registered against three persons, however, subsequently they were exonerated by the complainant himself and



CRM-M-63188-2023

instead the petitioner and two others were nominated as accused in the present case.

5. On a pointed query learned State counsel has not been able to dispute that no clear cut motive has been attributed against the petitioner to commit the crime in question. On a further query put to the learned State counsel as to whether weapon of offence had been recovered from the petitioner, he, on instructions, has replied in the negative and submitted that it had been recovered from co-accused Anoop.

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

7. The cases at hand hinges on circumstantial evidence. As not disputed by the learned State counsel the complainant has been continuously absenting himself before the learned Trial Court to get himself cross examined despite issuance ofailable warrants. The petitioner has been in custody since 18.11.2021. As many as 24 prosecution witnesses have been cited out of whom only one i.e. the complainant has been partly examined. Hence, the possibility of the trial concluding in the near future seems unlikely. In the facts and circumstances as enumerated hereinabove, this Court deems it fit to extend the concession of bail to the petitioner.

8. 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

CRM-M-63188-2023

to be an expression of opinion on the merits of the case.

9. 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.

23.07.2024

(MANJARI NEHRU KAUL)
JUDGE

Vinay

Whether speaking/reasoned

:

Yes/No

Whether reportable

:

Yes/No