



IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

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CRM-M-59634-2024
Date of decision: 04.12.2024

DEEPAK

....Petitioner

V/s

STATE OF HARYANA

....Respondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present: Mr. Mrigank Sharma, Advocate, for the petitioner.

Mr.Rahul Mohan, Sr.DAG, Haryana.

MANJARI NEHRU KAUL, J. (ORAL)

1. The petitioner is seeking the concession of bail under Section 483 of the Bhartiya Nagrik Suraksha Sanhita, 2023 in case FIR No.47 dated 06.02.2022 under Sections 302, 323 of the IPC registered at Police Station Khedki Dhaula, District Gurugram.
2. Learned counsel for the petitioner submits that the allegations levelled against the petitioner in the FIR, lodged by his brother-in-law are highly improbable and baseless. The complainant has accused the petitioner of murdering his wife and minor daughter. However, it is argued that the false implication of the petitioner is evident from the fact that his son, who allegedly witnessed the crime in question, did not support the case of the prosecution and was declared hostile.
3. Furthermore, it is emphasized that even the neighbours of the petitioner who allegedly informed the complainant about the crime and purportedly took the deceased to the hospital, have also turned hostile



during the trial. These material witnesses turning hostile as per learned counsel, underscored the fabricated nature of the allegations.

4. Learned counsel further contends that the petitioner has been in custody since 06.02.2022 and only 13 prosecution witnesses have been examined so far.

5. Given the aforementioned circumstances, it is, therefore, evident that the petitioner is innocent and deserves to be enlarged on bail.

6. Per contra, learned State counsel has vehemently opposed the prayer and submissions made by the counsel opposite and reiterated the allegations levelled in the FIR annexed as Annexure P-1, which stands reproduced herein-under:

“To Mr SHO Sir, Police Station Khedki Daula Gurugram, Sir, this is the request that I am Dinesh Kumar son of Shri Sheeshram resident of H.NO. I am a resident of 134 Village Pandayala Kalan New Delhi- 110043. We are four (4) siblings who married my younger sister Rajnesh aged 32 years in the year 2013 according to Hindu customs Pel to Deepak S/O Shri Radhey Shyam village Bhangrola. My sister has two children, elder son Hardik aged 7 years and daughter Vidhi aged 5 years. My relative Deepak was a drug addict who would often quarrel with my sister for money for drugs. On 06.02.2022 at about 4.00 AM in the morning, I received information over the phone that my sister Rajnesh and my niece Vidhi were attacked by my relative Deepak in an intoxicated state at night and my sister and niece were referred from AARVEY Hospital SEC-90 to Safdarjung Hospital. On receiving the information, I reached Safdarjung Hospital with my family where my niece Vidhi was admitted to Safdarjung Hospital and due to worsening of my sister's condition, we brought her to Government Hospital SEC-10 Gurugram. Where the doctor declared my sister dead. My brother-in-law Deepak has killed my sister by hitting her and has



also injured my niece Vidhi by hitting her. Strictest action should be taken against my brother-in-law Deepak as per the rules. SD/- DINESH KUMAR, Dinesh Kumar S/O Sheesh Ram 9582787464.DT 06.02.2022.”

7. Learned State counsel has argued that as per the allegations, the petitioner, during the intervening night of 05/06.02.2022 at about 12:30 A.M., committed heinous acts of violence against his wife and five year old minor daughter. The petitioner demanded money from his wife and when she refused, he struck her with a grinding stone. Thereafter, he lifted his 5 years old daughter by her legs and threw her on to the ground resulting in fatal injuries to both the victims.

8. Learned State counsel, on instructions, has submitted that although the son of the petitioner was declared hostile during the trial, this was understandable given the traumatic circumstances he faced-losing both his mother and sister while the accused was his father. Learned State counsel has submitted that however, the son had previously recorded a statement under 164 Cr.P.C. before the Magistrate, where he provided a detailed account of the manner in which the petitioner carried out the crime in question on the fateful night.

9. Learned State counsel has further argued that the failure of the petitioner to take his injured wife and daughter to the hospital, despite being present at the scene, corroborates the case of the prosecution. Instead it was PW-5 Som Dutt (a cousin of the petitioner), who on being called by the father of the petitioner, rushed the victims to the hospital. All this,

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coupled with the recovery of the broken grinding stone and other articles at the scene of crime and the medical evidence, clearly supported the case of the prosecution.

10. Additionally, learned State counsel has submitted, on instructions, that PW-5 Som Dutt, while deposing before the trial Court had also categorically stated that upon learning of an altercation at the house of the petitioner, he went there and took the injured to the hospital. He also testified that it was the father of the petitioner, Radhey Shyam, who informed him that it was the petitioner who had assaulted both the deceased.

11. Learned State counsel has argued that the absence of any evidence suggesting forced entry into the house of the petitioner or the involvement of outsiders further points to the culpability of the petitioner. It has been vehemently asserted by the learned State counsel that the cumulative evidence- including the deposition of the complainant, the corroboration by PW-5 Som Dutt, and the medical evidence on record clearly proves the case of the prosecution against the petitioner even though the son of the petitioner had been declared hostile during trial.

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

13. Prima facie, the allegations against the petitioner are grave and serious. Allegedly the petitioner brutally assaulted his wife with a grinding stone following a demand for money and, in a further act of cruelty, lifted



his minor daughter by her legs and threw her onto the ground, causing fatal injuries.

14. The incident occurred in the dead of night within the house of the petitioner, where he was living with the deceased. Significantly, the petitioner did not take the injured to the hospital; instead it was his cousin, PW-5 Som Dutt, who, on being summoned by the father of the petitioner, took the two victims to the hospital. The testimonies of the complaint and PW-5 Som Dutt, combined with the medical evidence on record and the recovery of the weapon used in the assault, *prima facie*, support the case of the prosecution.

15. In the facts and circumstances as enumerated hereinabove, this Court does not deem it fit to extend the concession of bail to the petitioner as all the material witnesses stand examined with only formal witnesses remaining to be examined. Hence, there is every likelihood that the trial would conclude in the near future.

16. Accordingly, the instant petition is hereby dismissed. 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

December 04, 2024
poonam

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