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2024-PHHC-170902



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-59344-2024
DECIDED ON: 11.12.2024

DEEPAK ALIAS VICKY

.....PETITIONER

VERSUS

STATE OF HARYANA

.....RESPONDENT

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Mr. Rakesh Nehra, Sr. Advocate with
Ms. Bindu Tanwar, Mr. Ankit Yadav,
Mr. Sumit Singh, Advocates
for the petitioner.

Mr. Chetan Sharma, DAG Haryana

SANDEEP MOUDGIL, J (ORAL)**1. Relief sought**

The jurisdiction of this Court has been invoked for the 2nd time under Section 483 BNSS, 2023 for grant of regular bail to the petitioner in FIR No.43, dated 12.02.2022, under Sections 302, 201 and 34 of IPC, 1860, registered at Police Station Badhra, District Charkhi Dadri, Haryana. .

2. Prosecution story setup in the present case as per the version in the FIR as under:-

“It is submitted that I Om Prakash S/O Chander Bhan is resident of Village Dudiwala, Krishanpura. We are 5 brothers and I am an agriculturist. My remaining 3 brothers are into the business of transport. My younger brother Parveen is in Army. His age is 35 years. He has come on leave at home, who was to go on duty today. As on the night of 03.02.2022 we all went to

sleep after taking dinner. On 04.02.2022, in the morning he was feeling Giddy. We have brought him to General Hospital, Dadri. The doctors have declared him dead. We suspect that he has died due to Heart attack. Postpartum may be conducted of my brother. I shall be highly obliged Sd/- Om Parkash applicant. Om parkash S/O Chander Bhan, Village Dudiwala, Krishanpura, District Charkhi-Dadri.”

3. **Contention**

On behalf of the petitioner

Learned counsel for the petitioner submits that the petitioner was not named in the FIR and there is inordinate delay of about 8 day in lodging the FIR and said delay has not been explained by the prosecution. It is further submitted on behalf of the petitioner that statements of all the private witnesses including complainant has been recorded and there is no iota of legal evidence against the petitioner to connect him with the commissioning of offence.

It is contended on behalf of the petitioner that he is in custody since 18.02.2022 and conclusion of trial shall take long time, therefore, submits that no useful purpose would be served by keeping the petitioner behind bars for an indefinite period.

On behalf of the State

Learned State counsel has filed the custody certificate of the petitioner, which is taken on record. He strongly opposes the prayer made in the present petition, asserting that the petitioner had an illicit relationship with the wife of deceased, with whom he allegedly committed the murder. He further contends that the allegations against the petitioner are serious in nature, and therefore, he does not deserve the concession of bail at this stage.

4. **Analysis & Conclusion**

The allegations against the petitioner are that on 04.02.2022, he, along with the co-accused Manisha (wife of deceased), caused the death of Parveen, an army man who was about to retire after one and half month and he had been on leave and was present in his village when his body was found lying dead on his bed the next morning. His family initially suspected heart failure as the cause of death. However, the postmortem report revealed that the cause of death was *asphyxia due to smothering*. The matter was reported to the police, and it was alleged that the petitioner had an illicit relationship with the wife of deceased and, together with her, committed the murder. As per the version of the prosecution, it was revealed that they first secretly administered sleeping tablets to the deceased to render him unconscious, and then covered his face and pressed until he died. Hence, Section 302 of IPC, 1860 is made out against the petitioner. Keeping in view of the role and attribution to the present petitioner, he does not deserve the concession of regular bail at this stage.

No doubt the petitioner is in custody since 18.02.2022, but there is no delay in the investigation or trial and the petitioner has actively participated in the crime with co-accused Manisha. This Court is sanguine of the fact that if the petitioner is enlarged on bail, there is every chance that he may hamper the trial and create a fear psychosis in the mind of left-over prosecution witnesses and may give an impression in the masses that criminals may carry out such a heinous crime with impunity.

The Court while considering the bail petitions is conscious that personal liberty has to be weighed and balanced with societal/public interest at large, and ensure that the course of justice is not thwarted by the powerful and influential accused persons.

In view of the discussions made hereinabove, this Court does not deem it a fit case to enlarge the petitioner on regular bail at this stage. Hence, the present petition stands dismissed.

11.12.2024

Meenu

(SANDEEP MOUDGIL)
JUDGE

<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether reportable</i>	<i>Yes/No</i>