

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

243

CRM-M-64701-2023

Date of decision: 09.01.2024

Ashish

.....Petitioner

Versus

State of Haryana

.....Respondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present : Mr. Niraj Sinhmar, Advocate
for the petitioner.

Ms. Jasleen Chahal, 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.43 dated 27.02.2019 under Sections 302/34 of the IPC registered at Police Station Julana, District Jind.

2. Learned counsel for the petitioner inter alia contends that the petitioner has been falsely implicated in the instant case along with the other co-accused for allegedly committing the murder of Suresh (hereinafter referred to as 'the deceased'). Learned counsel has submitted that as per the case of the prosecution, there was an altercation between the petitioner accused and the deceased while they were consuming alcohol and assuming for the sake of arguments, though not conceded, that the petitioner was indeed in the company of the deceased, it was seemingly a case wherein the deceased in all likelihood, under the influence of liquor had fallen into the drain and met his end. It has been argued that the petitioner's false implication is

also evident from the fact that he was neither named in the FIR nor any suspicion raised therein qua his role in the crime in question; he came to be arrayed as an accused on the basis of a supplementary statement made by the complainant after 02 days of the alleged occurrence wherein for the first time he alleged that the petitioner had also participated in the murder of the deceased. Learned counsel has further submitted that thereafter a false recovery of the weapon of offence i.e. an iron instrument was planted upon the petitioner which did not even bear any bloodstains. Learned counsel has still further drawn the attention of this Court to the deposition of Rajesh, who stepped into the witness box as PW1 and submitted that he was a material witness, who had allegedly seen the deceased in the company of the petitioner and co-accused soon before the occurrence in question, and had not supported the case of the prosecution inasmuch as he had categorically deposed that the petitioner was not the person who had accompanied the deceased on 26.02.2019 to his egg stall; resultantly PW1 Rajesh was declared hostile. A prayer has, therefore, been made that in the aforementioned facts and circumstances since the petitioner has been in custody for more than 04 years having been arrested on 01.03.2019, he be enlarged on bail as his further incarceration would serve no useful purpose moreso since the prosecution evidence is still underway.

3. Per contra, learned State counsel while opposing the prayer made by learned counsel for the petitioner, on instructions, has controverted the submissions made by the counsel opposite. It has been asserted that no traces of alcohol was found during the Post Mortem Report of the deceased and hence the contention of the petitioner that

he may have fallen into the drain under the influence of alcohol was meritless. Learned State counsel has further submitted that no doubt PW1 Rajesh had been declared hostile, however, the wife of the deceased, who stepped into the witness box as PW5, had fully supported the case of the prosecution inasmuch as she had categorically deposed that on the fateful day when she had a telephonic conversation with her deceased husband, he revealed to her that he was with the petitioner and the co-accused; even the complainant while stepping into the witness box corroborated the case of the prosecution and hence, the factum of PW1 Rajesh not supporting the case of the prosecution was inconsequential as it was evident that he had turned hostile for reasons but obvious. It has been furthermore submitted that no doubt the co-accused had been granted bail, however, the injuries upon the deceased had been attributed to the petitioner and even the weapon of offence was recovered from him. Learned State counsel has, on further instructions, informed the Court that no doubt the petitioner has been in custody since 01.03.2019, however, the trial is nearing conclusion as only formal witnesses remain to be examined and the next date before the Trial Court is 12.02.2024. Learned State counsel has asserted that since the material witnesses have fully supported the case of the prosecution, if the petitioner is enlarged on bail, there was a likelihood that he could abscond during trial.

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

5. Prima facie there are serious allegations against the petitioner of having actively participated in the crime in question.

Allegedly there was an altercation between the petitioner and the deceased who was then inflicted injuries by the petitioner and thereafter thrown into a drain. As per instructions received by the learned State counsel, the trial would not take much time to conclude, hence, at this stage this Court would not be inclined to accept the prayer of the petitioner for extending him the concession of bail. 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.

6. Since the petitioner has been in custody for more than 04 years having been arrested on 01.03.2019, the Trial Court is directed to expedite the trial and conclude it at the earliest within the next 04 months.

09.01.2024

Vinay

(MANJARI NEHRU KAUL)
JUDGE

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