

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

242

CRM-M-65097-2023

Date of decision: 07.02.2024

Parveen

.....Petitioner

Versus

State of Haryana

.....Respondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present : Mr. Mohit, Advocate for
Mr. Sumit Sangwan, Advocate
for the petitioner.

Ms. Trishanjali Sharma, DAG, 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.0417 dated 30.04.2022 under Sections 147, 148, 149, 302 of the IPC (Section 34 of the IPC added in challan and Sections 147, 148, 149 of the IPC deleted) registered at Police Station HTM Hisar, District Hisar.

2. Learned counsel for the petitioner inter alia contends that the case in hand rests on circumstantial evidence. The petitioner was neither named in the FIR nor any suspicion raised qua his involvement in the murder of Rajiv (hereinafter referred to as 'deceased'). Learned counsel submits that the petitioner came to be nominated as an accused on the basis of a disclosure statement allegedly suffered by co-accused Manish wherein it was stated that the petitioner was accompanying the co-accused and had inflicted fist blows on the person of the deceased.

Learned counsel has further submitted that the motive to commit the

crime in question was an alleged illicit relationship between the wife of the deceased and one Deepak, however, strangely said Deepak had been exonerated by the police. Learned counsel submits that since it is a case resting on circumstantial evidence, motive which plays an important role in such like cases, is clearly amiss and furthermore, no motive was attributed to the petitioner to have committed the crime in question. It has still further been submitted that after the petitioner was arrested on 05.05.2022 all the 07 material witnesses including the complainant stood examined, however 14 witnesses were still remaining to be examined, hence, there was no possibility of the trial concluding in the near future.

3. Per contra, learned State counsel while opposing the prayer made by learned counsel for the petitioner, on instructions, has not been able to dispute that the alleged motive to commit the crime in question had been attributed by the complainant to one Deepak who had concededly not been challaned and had been exonerated during investigation. Learned State counsel has also not disputed that it is a case resting on circumstantial evidence and no motive had been attributed to the petitioner to participate in the crime in question, however, she submits that the petitioner had inflicted fist and leg blows on the person of the deceased. Learned State counsel has informed the Court that the complainant as well as son of the deceased had been declared hostile during trial qua co-accused Sunita i.e. wife of the deceased. Learned State counsel has further informed the Court on instructions that the next date fixed before the Trial court is 21.02.2024 when some more prosecution witnesses are likely to be examined.

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

5. The petitioner has been in custody since 05.05.2022. All the material witnesses stand examined. There is no possibility of the trial concluding in the near future as 14 prosecution witnesses still remain to be examined. Hence, further incarceration of the petitioner in the instant case which hinges of circumstantial evidence, would serve no useful purpose. In the facts and circumstances as enumerated hereinabove, this Court thus, deems it fit to extend the concession of bail to the petitioner.

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

7. 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.

07.02.2024

Vinay

(MANJARI NEHRU KAUL)
JUDGE

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