



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

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CRM-M-9228-2025

Date of decision: April 30th, 2025

Vijay Pal

.....Petitioner

Versus

State of Haryana

.....Respondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present: Mr. Amit Khari, Advocate
for the petitioner.

Mr. Rajat Gautam, Additional Advocate General, Haryana.

MANJARI NEHRU KAUL, J.

Petitioner is seeking the concession of regular bail in FIR No.349 dated 24.06.2023 under Section 302 read with 34 of the IPC registered at Police Station Naraingarh, District Ambala.

2. Learned counsel for the petitioner submits that the case against is based entirely on circumstantial evidence and that the petitioner has been in custody since 13.07.2023-close to two years as of now. It is emphatically argued that in a case resting solely on circumstantial evidence, the element of motive assumes paramount importance, yet in the present case, no clear or cogent motive is forthcoming. In fact, it is contended that the FIR lodged by the complainant (brother of the deceased), does not contain even the remotest hint of suspicion against the petitioner. Instead, the FIR merely refers to an audio clip purportedly received by the complainant, wherein co-accused Raju Gujjar is allegedly heard boasting about having taken

revenge upon a 'back biter', a reference understood to be directed at the deceased.

3. Learned counsel further submits that the case of the prosecution against the petitioner hinges primarily on the disclosure statement made by co-accused Raju Gujar, post-arrest, wherein he implicated the petitioner as one of the persons, who had accompanied him and the deceased to the place of occurrence. It is claimed that the petitioner and co-accused allegedly forcibly submerged the neck of the deceased in a water tank, resulting in his death. However, it is strenuously argued that this version is riddled with inconsistencies and unsupported by any medical or ocular evidence. Specifically, it is pointed out that the post-mortem report does not note any external injuries or signs of struggle, which would ordinarily be expected in a case of forcible drowning, thereby rendering the version of the prosecution inherently doubtful.

4. Learned counsel also contends that the chain of circumstantial evidence is incomplete, with several crucial links missing. There is no last seen evidence, nor any independent corroboration of the presence of the petitioner at the scene of crime. Moreover, it is urged that the sole material witness i.e. complainant, has already been examined during trial, and with 17 prosecution witnesses still yet to be examined, the prospect of early conclusion of trial appears remote. In these circumstances, it has been urged that further incarceration of the petitioner would serve no useful purpose.

5. *Per contra*, learned State counsel, while opposing the prayer and submissions made by the counsel opposite, does not dispute that the petitioner has been in custody since July 2023, nor that the

complainant, the sole material witness, has already been examined. It is also not denied that a significant number of witnesses remain to be examined.

6. Upon specific query by this Court, learned State counsel, on instructions, submits that the petitioner was alleged to have accompanied the deceased along with co-accused Raju Gujjar on a scooty, which was later recovered from the petitioner. Additionally, learned State counsel has referred to the aforementioned audio recording, which forms part of the material being relied upon by the prosecution. It is further submitted by the learned State counsel, on instructions, that co-accused Raju Gujjar, in his disclosure statement, specifically named the petitioner as a co-perpetrator in the commission of the offence.

7. As regards the motive for the crime, learned State counsel, again on instructions, states that the accused were allegedly aggrieved by the conduct of the deceased, who was said to be indulging in persistent backbiting, which prompted them to eliminate him.

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

9. It is not in dispute that the petitioner has been in custody since 13.07.2023 and that the trial is unlikely to conclude in the near future with 17 prosecution witnesses yet to be examined. The complainant, who is the most material witness in support of the prosecution case, has already been examined.

10. The case against the petitioner is one based entirely on circumstantial evidence. Notably, no independent or direct incriminating evidence has been brought to the notice of this Court that connects the

petitioner to the commission of the offence, save for a disclosure statement made by co-accused Raju Gujjar after his arrest, in which he implicated the petitioner as one of the persons, who had accompanied him and the deceased to the alleged place of occurrence. There is no recovery attributable exclusively to the petitioner except the scooty allegedly used in transporting the deceased-an element that, by itself, may not be conclusive of guilt in the absence of further corroboration.

11. The only motive, which has been ascribed by the prosecution to commit the crime in question is that the deceased was a habitual backbiter and, therefore, the accused, including the petitioner were harbouring grievance against him. Furthermore, the post-mortem report of the deceased does not record the presence of any external injuries as also submitted by the learned State counsel, on instructions. The absence of signs of resistance or struggle, in a case alleging physical coercion leading to death, weakens the prosecution narrative, at least *prima facie*.

12. Keeping in view the fact that the petitioner has already undergone a substantial period of incarceration; that no direct motive has been specifically assigned to him; that the case hinges on circumstantial evidence; that the sole material witness i.e. the complainant stands examined; and that the trial is unlikely to conclude in the near future, this Court deems it fit to extend the concession of bail to the petitioner.

13. Accordingly, the instant petition is allowed and the petitioner be admitted to bail to the satisfaction of the trial Court/Duty Magistrate concerned.

14. 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.

April 30th, 2025
Puneet

(MANJARI NEHRU KAUL)
JUDGE

Whether speaking/reasoned : Yes
Whether reportable : No