

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

2025:PHHC:028976



(221)

CRM-M-10303-2025

Date of Decision: 28.02.2025

Upender Yadav

--Petitioner

Versus

State of Haryana

--Respondent

CORAM:- HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL.

Present:- Mr. Balraj Gujjar, Advocate for petitioner.

Mr. Yuvraj Shandilya, AAG, Haryana.

MANJARI NEHRU KAUL.J (Oral)

The petitioner is seeking the concession of regular bail, filed under Section 483 BNSS, in case FIR No.527, dated 14.12.2021, under Sections 363 (added later on 364, 302, 201, 34 IPC), registered at Police Station, Dabua, Faridabad, District Faridabad.

Learned counsel for the petitioner submits that in a case resting on circumstantial evidence, the petitioner has been in custody since 16.12.2021. Initially, the missing report was lodged by the father of deceased Sham (herein after to be referred as 'the deceased'), however, no suspicion was raised with respect to the involvement of the petitioner in the missing of the deceased. Subsequently, the complainant made a supplementary statement, wherein for the first time he raised suspicion qua the involvement of the petitioner and co-accused Dashrath in the missing of his son. Counsel has submitted that co-accused Dashrath has already been

extended the concession of bail by this Court vide order dated 06.02.2025 annexed as Annexure P-4.

It has been further argued by the learned counsel for petitioner that although it is a case resting on circumstantial evidence, no cogent motive had been attributed to the petitioner to carry out the crime in question; the absence of a clear and compelling motive to commit the crime, therefore renders the chain of events leading to the guilt of the accused incomplete; entitling the petitioner not only to the concession of bail but also benefit of doubt. It has been asserted by counsel that all the material witnesses stand examined and hence in the circumstances there can be now no possibility of the petitioner intimidating or influencing any of the witnesses coupled with the fact that since 16 prosecution witnesses still remain to be examined, the trial is unlikely to conclude in the foreseeable future.

Per contra, learned State counsel while opposing the prayer and submissions made by the counsel opposite, on instructions has not disputed that the petitioner has been in custody since 16.12.2021 and all the material witnesses stand examined. It has also not been disputed that no suspicion was raised qua involvement of the petitioner when the missing report was initially lodged by the complainant (father of the deceased). However, it has been submitted that after a supplementary statement was made by the complainant, the petitioner was arrested by the police; on his arrest and during his interrogation, the petitioner suffered a disclosure statement leading to the recovery of the body of the deceased and also the weapon of offence i.e. a stone with which the deceased was done to death.

It has not been disputed by the learned State counsel that co-accused

Upender Yadav was extended the concession of bail on 25.02.2025 as the DNA Report had not been received, even though, it was sent almost 1 ½ years back. Learned State counsel, on instructions, has however submitted that it had come during investigation that the crime in question was committed as the co-accused Dashrath suspected that the deceased had been committing wrong acts with his daughter.

On a pointed query put to learned State counsel as to whether the petitioner has any previous criminal antecedents, he, on instructions, has replied in negative.

I have heard learned counsel for the parties and examined the material on record.

The petitioner has been in custody in a case which hinges on circumstantial evidence. The trial has been unreasonably delayed due to the reasons not attributable to the petitioner. Given that four material witnesses including the complainant have already been examined and the remaining evidence is primarily documentary and scientific in nature, there is no justifiable reason for the petitioner to continue in custody, this Court deems it fit to admit the petitioner to bail.

Accordingly, the instant petition is allowed and 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.

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.

(MANJARI NEHRU KAUL)
JUDGE

28.02.2025

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Whether speaking/reasoned:	Yes/No
Whether Reportable:	Yes/No