

2025:PHHC:029048



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-45923-2024
Decided on :28.02.2025

Digambar @ Diggu ...Petitioner
Versus

State of Haryana ...Respondent

Coram : Hon'ble Mr. Justice Sanjay Vashisth

Present: Mr. Karan Pathak, Advocate,
for the petitioner.

Ms. Mayuri Lakhanpal, DAG, Haryana.

Sanjay Vashisth, J. (Oral)

1. The instant petition has been filed under Section 483 of BNSS, 2023 (earlier Section 439 Cr.P.C.), for grant of regular bail to the petitioner, during the pendency of trial, who has been booked in a criminal case arising out of First Information Report, as detailed hereunder:-

Name of Petitioner(s)	FIR No.	Date	Section(s)	Police Station	District
Digambar @ Diggu	130	19.12.2020	302/34 IPC	Bahin	Palwal

2. The petitioner being inside jail, had earlier filed a regular bail application bearing CRM-M-52815-2021 before this Court, which was allowed on 10.05.2022 by recording contention of the petitioner, which are reproduced here-as-under:-

“As per the case of prosecution, the FIR in question was registered at the instance of one Sourav

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@ Seenu. It was stated by the said Sourav @ Seenu (now co-accused) that on 13.12.2020, he came to know at around 7.00 a.m. that his grandmother Indro @ Indra @ Indrawati had passed away and that no suspicion or allegation had been levelled in the said complaint. Postmortem examination of the deceased was got conducted and as per the opinion of the Board of Doctors, the cause of death is asphyxia as a result of compression force around the neck due to strangulation that was sufficient to cause death in ordinary course of nature.

Learned counsel for the petitioner contends that the petitioner was apprehended in another case bearing FIR No.122 dated 21.12.2020 registered at Police Station Bahin under Section 25-54-59 of the Arms Act, 1959 and on the basis of a disclosure recorded in the said case, the petitioner was also taken in custody in the instant case. It is pertinent to point that the police had also recorded a statement of one Karambir as the last-seen-account witness. The said witness has claimed that the petitioner had told him about having committed the murder of Indro @ Indra @ Indrawati and that the petitioner had threatened that in case he would tell about this to any other person, he would be eliminated.

Learned counsel for the petitioner has submitted that it is a case of 'no eye witness' at all and that the petitioner is being sought to be roped in the instant case on the basis of the alleged 'last seen account' of the said witness, who had not only appeared before the police at a very later stage and that too after the petitioner was already in custody in

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another case but also that no valid explanation has been tendered as to why the said witness did not appear before the police/investigating agency to get his statement recorded. Invariably, there was no occasion for the petitioner to have extended the threat to the said witness when the petitioner was already in custody of police and had allegedly made disclosure statement as regards his involvement in the murder of Indro @ Indra @ Indrawati. Moreover, there is also no reason that as to why the petitioner would approach the said Karambir and disclose to him anything about having committed any act/ offence. He further submits that the petitioner is in custody since 22.12.2020 and only three witnesses have been examined so far. It is also claimed that no recovery has been effected from the petitioner pursuant to the alleged disclosure statement and as such, the confession so made would be inadmissible in evidence being hit by Section 27 of the Indian Evidence Act.”

3. Learned counsel for the petitioner submits that by that time he was ordered to be released on bail, the petitioner had already suffered incarceration for a period of one year and five months. During the proceedings before the learned Trial Court, he could not appear on one occasion, i.e. on 14.02.2023 and the application for seeking exemption from appearance was also dismissed. Subsequently, on 13.09.2023, the petitioner was declared as a proclaimed offender. However, he again surrendered before the Court on 03.01.2024 and since then, the petitioner is inside jail. He further submits that the petitioner has suffered incarceration of a total period of 2 years and 7 months and the

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proceedings in trial are almost static, because out of 20 prosecution witnesses, only 4 have been examined. Thus, prays that in the backdrop of such circumstances, his plea for bail be considered again.

4. On the other hand, learned State counsel is not able to controvert any of the factual aspects recorded in the order dated 10.05.2022 while allowing first bail application of the petitioner and rather confirms that till date, only 4 prosecution witnesses have been examined.

5. After hearing learned counsel for the parties and perusing the relevant material on record with their able assistance, and also noticing all the facts which were recorded by the Coordinate Bench also (*supra*) in order dated 10.05.2022 and also the fact that the petitioner has already suffered incarceration of about 2 years and 7 months, I deem it appropriate to reconsider bail plea of the petitioner and grant him concession of bail.

6. Consequently, prayer made in the present petition is **allowed**. Petitioner is ordered to be released on bail, subject to his furnishing bail/surety bonds to the satisfaction of the learned trial Court/ Chief Judicial Magistrate/ Illaqa Magistrate/ Duty Magistrate concerned, if not required in any other case.

7. Needless to observe that the petitioner shall not extend any threat and shall not influence any prosecution witness in any manner directly or indirectly.

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8. The observation made hereinabove shall not be construed as an expression of opinion on the facts of the case and the Trial Court is expected to decide the case on the basis of complete evidence available on record.
9. Petition stands disposed of.

February 28, 2025
vinod*

(Sanjay Vashisth)
Judge

Whether Speaking/Reasoned:
Whether Reportable:

YES/~~NO~~
YES/NO