



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

228**CRM-M-55272-2024****Date of decision: 14.01.2025**

Arshad

....Petitioner

V/s

State of Haryana

....Respondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present: Mr. Ram Singh, Advocate,
Mr. Afjal Hussain, Advocate,
Dr. Hurbinder Kaur, Advocate and
Ms. Hurbir Kaur, Advocate
for the petitioner.

Mr. Yuvraj Shandilya, AAG, Haryana.

Ms. Sunita Gupta, Advocate
for the complainant.

MANJARI NEHRU KAUL, J. (ORAL)

1. The petitioner in the instant (second) petition is seeking the concession of bail under Section 439 of the Cr.P.C. in case FIR No.399 dated 23.09.2022 under Sections 302 of the IPC registered at Police Station Sadar Tauru, District Nuh.

2. Status report by way of affidavit of Devender Singh, HPS, Deputy Superintendent of Police, Tauru, District Nuh (Mewat), on behalf of the respondent-State, has been filed in the Court today which is taken on record subject to all just exceptions. A copy of the same has been supplied to the counsel opposite.



3. Learned counsel for the petitioner contends that the present case rests entirely on circumstantial evidence. There are neither any witnesses, who saw the deceased with the petitioner shortly before the alleged incident, nor is there any clear or direct motive linking the petitioner to the murder of the son of the complainant. It has been asserted that the petitioner has been implicated as an accused in the present case solely based on suspicion, unsupported by any credible evidence on record.

4. Learned counsel further points out that the FIR (Annexure P-1) was initially lodged by the complainant stating that his son, who worked as a truck driver, had gone missing. As per the FIR, the son of the complainant had started driving his truck from Bombay towards Ghaziabad, while the petitioner, also a truck driver had been travelling separately from Bombay to Faridabad. Both were said to have crossed paths at KMP Highway on 21st of September 2022, where the deceased and the petitioner allegedly stopped their respective vehicles briefly and consumed alcohol together. Thereafter, the petitioner proceeded towards Faridabad where he unloaded his goods from his truck. The son of the complainant reportedly disappeared from the spot and was untraceable thereafter.

5. Learned counsel has emphasized that a perusal of the FIR indicates that no suspicion with respect to the involvement of the petitioner in the disappearance or murder of the deceased was raised. Subsequently, on 24th September, 2022, the police discovered the body of an unknown person from a culvert on the KMP highway, which was later identified as



the son of the complainant. It has been argued that despite the absence of any evidence or suspicion at the time qua the involvement of the petitioner in the crime in question, the petitioner was arrested on 25th September, 2022, and a disclosure statement was allegedly extracted from him, which is more in the shape of a confession, and is therefore inadmissible in law.

6. While drawing the attention of this Court to the disclosure statement annexed as Annexure P-2, it has been further asserted by the learned counsel that it stands stated therein that both the petitioner and the deceased had stopped their respective vehicles en route, consumed alcohol together, and later stopped at a roadside hotel for a meal. During this time, due to the alleged illicit relationship of the petitioner with the wife of the deceased, he purportedly pushed the deceased into a culvert, causing his death, before fleeing to Faridabad to unload his truck.

7. Learned counsel has argued that the disclosure statement is inadmissible as it is self incriminating and furthermore lacks corroboration from any independent evidence. Furthermore, the circumstances described in the statement are implausible. It is highly improbable that the deceased, if aware of the petitioner's alleged illicit relationship with his wife, would have willingly consumed alcohol and dined with him. Moreover, if the petitioner was indeed a suspect, the complainant would have expressed his doubts during the initial filing of the FIR itself, which is not even the case herein.

8. The learned counsel has further highlighted that the only material witness in the instant case is the complainant himself, whose



testimony has already been recorded before the trial Court and is annexed as Annexure P-3; a plain reading of this deposition, reveals that the petitioner has been implicated solely on vague and baseless suspicion. Additionally, it has been asserted that the possibility that the deceased met with a fatal accident due to intoxication cannot be ruled out, particularly since it is undisputed that he had consumed alcohol shortly before his death.

9. Per contra, learned State counsel assisted by the counsel for the complainant has not disputed that there is no eyewitness to the occurrence in question and no suspicion was raised with respect to the involvement of the petitioner at the time of the registration of the FIR by the father of the deceased. However, it has been argued that the petitioner was harbouring a grudge against the deceased due to his illicit relationship with the wife of the deceased; a Panchayat was convened on this issue sometime prior to the incident.

10. It has been further contended that the murder was premeditated and carried out by the petitioner, who pushed the deceased from a fly over into a culvert before fleeing. It is further argued that the petitioner confessed to the crime upon his arrest on 25th September, 2022, disclosing the manner in which it was committed. Additionally, call detail records and location data of both the petitioner and the deceased at the same location leave no manner of doubt that the deceased was in the company of the petitioner shortly before his death.



11. However, learned State counsel, on instructions, has not disputed that the custody period of the petitioner nor has it been disputed that 15 prosecution witnesses still remain to be examined, coupled with the fact that the sole material witness i.e. the complainant has already been examined.

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

13. The instant case is based entirely on circumstantial evidence, with no eyewitness account of the occurrence. The motive, as alleged by the complainant, was brought to light only after the body of the deceased was recovered and not at the time of filing the FIR. Furthermore the complainant, the sole material witness, has already been examined before the trial Court. The admissibility and reliability of the disclosure statement given by the petitioner would be tested during trial. The petitioner has been in custody since 25th September, 2022, and the trial is unlikely to conclude in the near future, given that 15 prosecution witnesses remain unexamined. With the complainant already examined, there is no reasonable apprehension of the petitioner tampering with evidence or intimidating/influencing witnesses. The petitioner has not disputed by the learned State counsel on instructions has no previous criminal antecedents.

14. In the facts and circumstances as enumerated hereinabove, this Court deems it fit to extend the concession of bail.

15. 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.

16. 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.

January 14, 2025
poonam

(MANJARI NEHRU KAUL)
JUDGE

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