

2025:PHHC:080156



232.

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

CRA-S-688-2024

Date of decision: 07.07.2025

Jitender @ Jacky

... Appellant

Versus

State of Haryana

... Respondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present: Mr. Namit Khurana, Advocate, for the appellant.

Mr. Rajat Gautam, Addl. A.G., Haryana.

MANJARI NEHRU KAUL, J. (ORAL)

1. By way of present appeal, the appellant is seeking bail in case FIR No.919, dated 31.08.2019, under Sections 302, 120-B, 34 IPC, Section 25 of Arms Act and Section 3(2)(v) of SC/ST Act, registered at Police Station Sadar, Karnal.
2. Learned counsel for the appellant has contended that in a case based entirely on circumstantial evidence, the appellant has now been in custody for more than 04 years having been arrested on 11.01.2021. It has been submitted that neither did the appellant have any motive to commit the murder of deceased, Sandeep, nor was any incriminating material much less weapon of offence recovered from him. It has been further submitted that

even as per the case of the prosecution, the motive to commit the alleged murder rested with co-accused, who has since been extended the concession of bail on 23.03.2022, vide Annexure P-3. It has been further submitted that as per the case of the prosecution subsequent to the registration of FIR in question which was registered against unknown assailants, the appellant, who was already booked in another criminal case, confessed to his involvement in the alleged murder and also got the weapon of offence (country made pistol) recovered; however, the case of the prosecution falls flat in the face as firstly, even as per the FSL report, no definite opinion was given with respect to the use of the recovered firearm in the alleged murder and secondly, it has vehemently been asserted by the learned counsel that the confession purported to have been made by the appellant following his nomination as an accused in the present case is inadmissible in law.

3. On a pointed query as to whether there was any witness of last seen, learned counsel has categorically replied in the negative.

4. *Per contra*, learned State counsel, while opposing the prayer and submissions made by the counsel opposite, has neither disputed the custody period of the appellant nor has he disputed the report of the FSL. It has also not been disputed, on instructions, that the motive to commit the crime has been attributed to co-accused, Amit, who has since been extended the concession of bail.

5. On a further query, learned State counsel has submitted that 04 out of the 39 prosecution witnesses, which include the brothers of the deceased have been examined, although 01 of those 02 i.e. PW-Parveen has

only been partly examined. In addition, learned State counsel has submitted that the appellant is a man of criminal antecedents as it is a matter of record that he is involved in 05 other criminal cases and in 02 cases, he has since been convicted. Learned State counsel has, however, not been able to satisfy this Court qua the submissions made by the counsel for the appellant with respect to the evidentiary value of the confession purportedly made by the appellant with respect to his involvement in the murder of Sandeep.

6. On a pointed query, learned State counsel, on instructions, has also conceded that the motive to commit the crime lay not with the appellant but with co-accused, Amit.

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

8. The appellant has been in custody since 11.01.2021. On the face of it, the trial has been proceeding at a snail's pace with only 04 prosecution witnesses having been examined so far. Although the weapon of offence was alleged to have been recovered from the appellant, however, as not disputed by the learned State counsel, no definite findings have been given by the FSL with respect to the use of said weapon in the murder of deceased Sandeep.

9. Be that as it may, in the facts and circumstances, more so when the prime accused has already been extended the concession of bail, further incarceration of the appellant would serve no useful purpose as the trial is unlikely to conclude in the near future.

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

11. Accordingly, the instant appeal is allowed and the appellant be admitted to bail on his furnishing bail/surety bonds to the satisfaction of the Trial Court/Duty Magistrate concerned. However, keeping in view the pendency of other criminal cases against the appellant, the Trial Court may impose any stringent conditions as it deems fit so as to ensure the presence of the appellant on each and every date of hearing before the Trial Court.

12. It is made clear that anything observed hereinabove shall not be construed to be an expression of opinion on the merits of the case.

13. Needless to add, in case the appellant misuses the concession of bail granted to him, the State would be at liberty to seek cancellation of the same forthwith.

(MANJARI NEHRU KAUL)
JUDGE

July 07, 2025

sanjeev

Whether speaking/reasoned:

Yes/No

Whether reportable:

Yes/No