



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

CRM-M No.51334 of 2024
Date of decision: 6th February, 2025

Dashrath Shah

... Petitioner

Versus

State of Haryana

... Respondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present: Mr. Balraj Gujjar, Ms. Shweta Bawa & Mr. Vikas Saroha,
Advocates for the petitioner.

Mr. Rajat Gautam, Addl. Advocate General, Haryana
for the respondent/State.

MANJARI NEHRU KAUL, J.

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

2. Learned counsel for the petitioner submits that the petitioner has been falsely implicated in the present case which is based on circumstantial evidence. It has been contended that after the son of the complainant (hereinafter referred to as, 'the deceased') went missing, the complainant recorded a missing report, however, no suspicion was raised qua the involvement of the petitioner in the missing of his son. Two days later, in a subsequent statement, complainant merely suspected the involvement of the petitioner in the missing of his son.

3. It is further submitted that the case of the prosecution rests entirely on circumstantial evidence and, significantly, no cogent motive has been attributed to the petitioner. In cases based on circumstantial evidence, the absence of a clear and compelling motive to commit the crime renders the chain of events leading to the guilt of the accused incomplete, thereby entitling the accused to the benefit of doubt, and in the present case, since the petitioner has been in custody for more than three years having been arrested on 20.12.2021, he too deserves the concession of bail. It has also been asserted that despite the challan being presented and the charges being framed more than two years back, the trial has virtually halted with only 4 prosecution witnesses, including the complainant, having been examined till date. It has been further argued that since the complainant, who is the most material witness, has already testified, there can be no apprehension of the petitioner influencing or intimidating the remaining 16 prosecution witnesses. It has also been submitted that since 16 prosecution witnesses are yet to be examined, the trial is unlikely to conclude in the near future.

4. Per contra, learned State counsel while opposing the prayer and submissions made by the counsel opposite, has drawn the attention of this Court to the affidavit of Vishnu Parshad, HPS, ACP, Badkhal, Faridabad, which has been filed today in the Court. It has been contended that although the complainant did not suspect the involvement of the petitioner in the missing of his son, however, during investigation a CCTV footage was retrieved showing the petitioner and

co-accused forcibly taking the deceased away. While further drawing the attention of this Court to the reply, it has been contended that co-accused Opinder made a disclosure statement after the registration of the FIR in question, leading to the recovery of the body of the deceased. Furthermore, a confession was made by both the co-accused and the petitioner qua their guilt. However, learned counsel for the petitioner has vehemently argued that any such confessions made by an accused are inadmissible in law.

5. Learned State counsel has not disputed the custody period of the petitioner nor has the stage of the trial been disputed, on instructions. However, learned State counsel has submitted that the delay in trial is on account of the pending DNA report, which would be crucial in proving the guilt of the petitioner. However, when a specific query was put to the State as to when the DNA report is expected to be received, he was unable to give any clear timeline for its receipt and on instructions, admitted that the DNA samples had been sent more than 1 ½ years back. It has also been submitted that the crime in question was committed as the complainant was unhappy with the deceased and suspected that the deceased had been committing wrong acts with his daughter.

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

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

8. The petitioner has been in custody for over three years in a case resting on circumstantial evidence. The trial has been unreasonably delayed due to the reasons not attributable to the petitioner. Given that the 4 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.

9. In the facts and circumstances, as enumerated hereinabove, and considering the slow progress of the trial, this Court deems it fit to extend the concession of bail to the petitioner. The petition as such is allowed and the petitioner is admitted to bail to the satisfaction of the trial Court/Duty Magistrate. 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.

10. Needless to add here, in case the petitioner misuses the concession of bail, the State would be at liberty to approach this Court for cancellation of bail in the instant case.

(MANJARI NEHRU KAUL)
JUDGE

February 6, 2025

rps

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