

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

CRM-M-11204-2022
Decided on : 20.07.2022

Nishu

..... Petitioner

Versus

State of UT, Chandigarh

..... Respondent

CORAM : HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present : Mr. Vinay Yadav, Advocate
 for the petitioner.

Mr. Abhinav Gupta, Addl. PP, UT, Chandigarh.

Manjari Nehru Kaul, J.(Oral)

This is the third petition filed under Section 439 Cr.PC for grant of regular bail to the petitioner in case FIR No.120 dated 21.09.2020 under Sections 324, 307 and 34 IPC registered at Police Station Sarangpur Chandigarh.

Learned counsel for the petitioner submits that subsequent to the dismissal of previous petition on 28.04.2021 wherein the same relief had been sought by the petitioner for extending the concession of bail as many as six witnesses including the material witness i.e. injured-complainant stands examined. While drawing the attention of this Court to the testimony of the injured witness, which has been annexed as P-2 with the petition, learned counsel submits that he had failed to support the case of the prosecution during trial as a result of which this witness was declared hostile. Hence, it can be clearly discerned that the petitioner has been

falsely implicated in the case in hand. Learned counsel further submits that the trial is unlikely to conclude in the near future as 14 prosecution witnesses remain to be examined. Hence, further incarceration of the petitioner would not serve any useful purpose as he is in custody for two years having been arrested on 22.09.2020.

Per contra, learned State counsel while opposing the prayer made by the counsel opposite on instructions from ASI Kulwant Singh has not disputed that the complainant is the sole material witness and he had failed to support the case of the prosecution during trial. Learned State counsel has also conceded that the main accused i.e. Rahul, who is brother of the petitioner and too whom four injuries attracting the mischief of Section 307 IPC have been attributed, has since been extended the concession of bail by this Court vide order dated 14.02.2022.

On a pointed query put to learned State counsel qua the antecedents of the petitioner, he on instructions submits that the petitioner was not involved in any other case.

Heard learned counsel for the parties and perused the relevant material on record.

As conceded by learned State counsel that the complainant exonerated the petitioner during trial and did not support the case of the prosecution, this Court deems it appropriate to extend the concession of bail to him, more so, since the trial is unlikely to conclude in the near future coupled with the fact that the material witness stands examined. Accordingly, the present petition is allowed. The petitioner be admitted to bail to the satisfaction to 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.

(MANJARI NEHRU KAUL)
JUDGE

20.07.2022
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Whether speaking/reasoned:	Yes/No
Whether reportable :	Yes/No