

279 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-20267-2021 (O&M)
Decided on : 15.07.2022

Vinod Kumar @ Manoj Kumar @ Kaka @ Pawa Petitioner

Versus

State of Punjab Respondent

CORAM : HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present : Mr. Naveen Sharma, Advocate
for the petitioner.

Mr. Abhay Pal Singh Gill, AAG, Punjab.

Manjari Nehru Kaul, J.(Oral)

This is the third petition filed under Section 439 Cr.PC for releasing the petitioner on bail in case FIR No.102 dated 04.05.2019 under Sections 302, 148 and 149 IPC (Challan presented under Sections 302, 342, 201, 148 and 149 IPC) registered at Police Station City Kapurthala, District Kapurthala.

Learned counsel for the petitioner submits that after the withdrawal of previous petition on 24.03.2021, the trial has been proceeding at a slow pace as only three witnesses out of 23 prosecution witnesses cited stand examined. He further submits that the false implication of the petitioner in the alleged crime is evident from the fact that though it was stated to be an eyewitness account, however, he was neither named nor attributed any specific role much less fatal injury on the person of the deceased. Rather, he was only attributed an injury on non-vital part of the deceased. He still further submits that it was later on, on the following day

in the supplementary statement recorded under Section 161 Cr.PC the complainant (father of the deceased) for the first time named the petitioner and attributed a role to him of being armed with datar and having attacked his deceased son. Learned counsel submits that there is no likelihood of the trial concluding in the near future and hence, he be extended the concession of bail. Learned counsel further undertakes that the petitioner would not tamper with the evidence much less influence the remaining witnesses, who are yet to be examined during trial.

Per contra, learned State counsel while opposing the prayer and submissions made by the counsel opposite submits that there has been no material change in the circumstances subsequent to the withdrawal of the second petition filed by the petitioner, which would warrant entertaining the instant petition. He has strongly controverted the submissions made by the counsel opposite that the petitioner has been attributed only injury on non-vital part of the person of the deceased. Learned State counsel submits that in fact petitioner was an active participant in the crime in question. He along with co-accused waylaid the deceased, who was accompanied by his father i.e. complainant and thereafter all the accused including the petitioner inflicted multiple injuries on his person. He submits that in fact the petitioner is attributed the fatal injury on the person of the deceased. He has further strongly opposed the grant of bail to the petitioner by submitting on instructions that since the petitioner had absconded subsequent to the registration of the FIR in question there was every likelihood that he could yet again abscond, which would without a doubt further delay the trial. He submits that the petitioner has to blame himself for the delay in the trial

because had he not absconded for as long as six months, the trial would have probably concluded by now.

Heard learned counsel and perused the relevant material available on record.

Prima facie there are serious allegations against the petitioner of having actively participated in the crime in question. A perusal of the contents of the FIR reveals that it was a premeditated attack carried out upon the deceased by all the accused including the petitioner, who was allegedly armed with a datar. The petitioner is alleged to have inflicted the fatal blow on the deceased. This Court in the aforementioned alleged role attributed to the petitioner does not deem it fit to extend the concession of bail to the petitioner coupled with the fact that he absconded subsequent to the registration of the FIR in question. Accordingly, the present petition stands dismissed. 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.

15.07.2022
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(MANJARI NEHRU KAUL)
JUDGE

Whether speaking/reasoned:
Whether reportable :

Yes/No
Yes/No