

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

CRM-M No.40333 of 2022

Date of decision : 9th September, 2022

Sultan Singh

... Petitioner

Versus

State of Haryana

... Respondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present: Mr. Aman Pal, Advocate for the petitioner.

Mr. Rohit Arya, Dy. Advocate General, Haryana
for the respondent/State.

Mr. R.S. Rai, Senior Advocate with
Ms. Eknoor Kaur Sara, Advocate for the complainant.

MANJARI NEHRU KAUL, J.

This is second petition of the petitioner filed under Section 439 Cr.P.C. in case bearing FIR No.1071 dated 10.10.2018 under Sections 302, 216, 34 IPC and Sections 25, 54, 59 of the Arms Act registered at Police Station Chandni Bagh, District Panipat.

Learned counsel submits that subsequent to the withdrawal of the previous petition on 03.06.2019, wherein similar relief as the one in hand, had been prayed for by the petitioner; 8 prosecution witnesses out of the 22 cited, have been examined.

Learned counsel inter alia contends that a totally false and fabricated version has been brought forth in the FIR which was registered at the instance of the brother of the deceased, who claimed

himself to be an eye-witness to the crime in question. Learned counsel submits that the presence of the complainant at the time of the alleged occurrence wherein the deceased was allegedly fired upon with a pistol by the petitioner, was belied from the fact that in the hospital admission slip (Annexure P-2), it was mentioned that the deceased had been brought with fire arm injuries by Ashok and Ravinder and there was no mention of the name of the complainant. Learned counsel, thus submits that it left no manner of doubt that the complainant was not a witness to the alleged occurrence and it was only on hearsay and some previous animosity between the deceased and the petitioner, that the latter had been falsely implicated in the crime in question. Learned counsel still further submits that since all material prosecution witnesses stand examined before the trial Court and there is no likelihood of the trial concluding in the near future, as 14 more witnesses remain to be examined, further incarceration of the petitioner would serve no useful purpose, as he has now been in custody since 11.10.2018.

Per contra, learned State counsel assisted by learned senior counsel for the complainant has vehemently opposed the prayer and submissions made by the counsel opposite. It has been submitted that from a perusal of the contents of the FIR, annexed as Annexure P-1, it is apparent that it was a pre-planned murder wherein the deceased had been lured by the accused including the petitioner on the pretext of sorting out their monetary dispute. The petitioner was already armed with a pistol with which he fired at the deceased, who was thereafter

immediately removed to the hospital. On way to the hospital, a video recording was done wherein the deceased not only named the petitioner and the role played by him in the crime in question but also the motive on the part of the accused party to commit the crime in question. It has still further been submitted that the aforementioned video recording was as good as the dying declaration of the deceased and stands exhibited and proved during trial.

Still further, learned State counsel and learned senior counsel for the complainant have submitted that Ashok, whose name finds mentioned in the admission slip (Annexure P-2), was an acquaintance of the complainant party and the said fact found mentioned even in the FIR, which was registered promptly. Learned State counsel has further vehemently argued that the petitioner is a man of criminal antecedents and involved in as many as 4 criminal cases. He has submitted that the crime in question was committed by the petitioner during the pendency of trial in the other criminal cases.

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

It is a case of ocular testimony, wherein all the material witnesses have supported the prosecution case on all its material aspects. The contentions of learned counsel for the petitioner that the presence of the complainant at the time of occurrence in question was doubtful, would be a matter of appreciation by the trial Court. In the aforementioned facts and circumstances and also the criminal

antecedents of the petitioner, this Court does not find it a fit case to extend the concession of bail to the petitioner.

As a sequel to the above, the instant petition is hereby dismissed. Anything contained hereinabove shall not be construed as an expression of opinion on the merits of the case.

(MANJARI NEHRU KAUL)
JUDGE

September 9, 2022

rps

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