

214 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-43856-2022
Decided on : 27.09.2022

Kulwinder Singh @ Kinda

..... Petitioner

Versus

State of Punjab

..... Respondent

CORAM : HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present : Ms. Ramandeep Kaur, Advocate
for the petitioner.

Mr. Teevar Sharma, AAG, Punjab.

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.86 dated 25.08.2020 under Sections 307, 387, 506, 120-B and 34 IPC and 25/54/59 of Arms Act registered at Police Station Smalsar District Moga.

Learned counsel for the petitioner submits that subsequent to the withdrawal of the previous petition on 27.08.2021, two material witnesses including the complainant and his wife stand examined. She submits that it is a case of no injury as the petitioner had allegedly fired in the air. However, while stepping into the witness box both the material witnesses including the complainant did not support the case of the prosecution, as a result of which, they were declared hostile which lends credence to the false implication of the petitioner in the FIR in question. In support of his submissions, learned counsel has drawn the attention of this Court to the depositions of the complainant and his wife, which have been annexed as Annexures P-1 and P-2 wherein the factum of they both turning hostile stands reflected. She further submits that the petitioner has now been in custody for more than two years

having been arrested on 23.09.2020 and there is no likelihood of the trial concluding in the near future as only two out of the 17 prosecution witnesses cited, so far have been examined. A prayer, has therefore, been made to extend the concession of bail to the petitioner.

Per contra, learned State counsel while opposing the prayer made by the counsel opposite, on instructions has conceded that though it was a case of no injury, however, the petitioner, who was armed with a fire-arm, had fired into the air. He has not been able to dispute that both the material witnesses including the complainant and his wife while stepping into the witness box failed to support the case of the prosecution and had thus, been declared hostile.

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

In the facts and circumstances as enumerated hereinabove coupled with the fact that the material witnesses i.e. complainant and his wife failed to support the case of the prosecution, this Court deems it fit to extend the concession of bail to the petitioner. 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.

27.09.2022
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(MANJARI NEHRU KAUL)
JUDGE

Whether speaking/reasoned:
Whether reportable :

Yes/No
Yes/No