

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

211

**CRM-M-3570-2023
Date of decision: 30.01.2023**

Sahil @ Chitta

.....Petitioner

Versus

State of Haryana

.....Respondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present : Mr. Uday Pratap Singh, Advocate
for the petitioner.

Mr. Chetan Sharma, AAG, Haryana assisted by
ASI Rm Karan.

MANJARI NEHRU KAUL, J. (ORAL)

This is the second petition filed under Section 439 of the Cr.P.C. for grant of regular bail to the petitioner in case FIR No.349 dated 16.11.2019 lodged under Sections 48, 149, 323, 324 and 302 of the IPC (Section 120-B IPC and Section 25 of the Arms Act, 1959 added lateron) registered at Police Station Parao Ambala Cantt., District Ambala.

Learned counsel for the petitioner submits that the petitioner who has been in custody for more than 03 years having been arrested on 23.11.2019, is a victim of false implication. Learned counsel submits that the false implication of the petitioner in the crime in question finds credence from the fact that both the material witnesses i.e. the complainant as well as eye witness Surinder while stepping into the witness box did not support the case of the prosecution and also failed to identify the accused persons including the petitioner as a result of which they were declared hostile during trial.

Learned counsel further submits that out of the 37 prosecution witnesses cited, only 04 have been examined and hence, the trial is unlikely to conclude in the near future and still further as the material witnesses stand examined, further incarceration of the petitioner would serve no useful purpose.

Per contra, learned State counsel while opposing the prayer and submissions made by learned counsel for the petitioner, on instructions has submitted that no doubt both the material witnesses i.e. the complainant as well as the eye witnesses Surinder while stepping into the witness box as PW1 and PW2 respectively did not support the case of the prosecution, however, there were serious allegations levelled against the petitioner in the FIR in question. Learned State counsel while drawing the attention of this Court to the FIR which has been reproduced in the body of the petition, submits that it was PW2 Surinder who telephoned the complainant and told him that deceased Sonu had been inflicted injuries by 7/8 boys at the bus stand of Ambala Cantt. Learned State counsel submits that PW2 admittedly was declared hostile as he failed to identify the assailants, however, in the wake of deceased succumbing to the injuries inflicted by the accused including the petitioner, he did not deserve the concession of bail.

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

The FIR in question was registered against 7/8 unidentified boys who allegedly inflicted injuries on the person of deceased Sonu as a result of which he died lateron. It has not been disputed by the learned State counsel on instructions that both the material witnesses i.e. PW1

complainant as well as PW2 Surinder, the alleged eye witnesses failed to support the case of the prosecution and did not identify the accused including the petitioner during trial, as a result of which they were declared hostile. The petitioner has been in custody since 23.11.2019 and the trial shall take considerable time to conclude as only 04 out of the 37 prosecution witnesses stand examined. In the facts and circumstances as enumerated hereinabove, this Court, therefore, deems it fit to extend the concession of bail to the petitioner.

Accordingly, the instant petition is allowed. The petitioner be admitted to bail to the satisfaction of 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.

30.01.2023

Vinay

(MANJARI NEHRU KAUL)
JUDGE

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