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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-5631-2022 (O&M)

Date of decision: 12.09.2023

Somraj

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present: Mr. Ajiteshwar Singh, Advocate
for the petitioner.

Mr. I.P.S. Sabherwal, DAG, Punjab.

MANJARI NEHRU KAUL, J.

1. The petitioner is seeking concession of bail under Section 439 Cr.P.C. in case FIR No.116 dated 18.07.2021 under Sections 302 and 34 of the Indian Penal Code, 1860, (Sections 323, 342, 148 & 149 IPC have also been added subsequently) registered at Police Station Kartarpur, Jalandhar Rural, Punjab.

2. Learned counsel for the petitioner *inter alia* contends that the petitioner's false implication in the case in hand is evident from the fact that while registering the FIR in question not even by way of whisper any suspicion was raised qua his hand in the murder of deceased Baljinder Singh @ Ballu and it was only subsequently, after 29 days of the murder coming to light, while making her second statement under Section 161

Cr.P.C., the complainant (mother of the deceased) had for the first time

stated that she had come to know that all the accused along with the petitioner had assaulted her son as a result of which he had died. Learned counsel for the petitioner has drawn attention of this Court to the deposition of all the material witnesses, including the complainant as well as two alleged eye witnesses, namely PW-2 Amandeep Singh, and PW-3 Hardeep Kumar,, who while stepping into the witness box, had not supported the prosecution case as a result of which they were declared hostile. Learned counsel for the petitioner further submits that since all the material witnesses stand examined and have turned hostile during trial, further incarceration of the petitioner would serve no useful purpose as 16 prosecution witnesses still remain to be examined.

3. Learned State counsel while opposing the prayer of the counsel opposite, has not been able to dispute the submissions made by the counsel opposite qua all the material witnesses turning hostile during trial and also the factum of the petitioner not having been named in the FIR in question and having been nominated as an accused only in the second statement made by the complainant under Section 161 of the Cr.P.C. after 29 days of the occurrence in question.

4. On a pointed query put to the learned State counsel as to whether the petitioner has any criminal antecedents, he on instructions, has replied in the negative. The petitioner has been in custody since 20.08.2021 and as already observed here-in-above all the material witnesses stand examined and have not supported the case of the prosecution.

5. In the facts and circumstances as enumerated hereinabove, 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.

12.09.2023

(MANJARI NEHRU KAUL)

Satyawan

JUDGE

Whether speaking/reasoned: Yes/No

Whether Reportable: Yes/No