

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

220

CRM-M-5845-2023 (O&M)

Date of decision: 11.10.2023

Tejbir Singh

.....Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

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

Mr. Mohit Kapoor, Addl. A.G., Punjab.

MANJARI NEHRU KAUL, J. (ORAL)

1. The petitioner is seeking the concession of bail under Section 439 of the Cr.P.C. in case FIR No.104 dated 29.09.2021 under Sections 302, 148, 149 of the IPC and Sections 25, 27 of the Arms Act registered at Police Station Verowal, District Tarn Taran.

2. Learned counsel for the petitioner submits that the case of the petitioner is at par with that of co-accused Lovepreet Singh and Kanwaljit Singh, who have since been extended the concession of bail by this Court vide order dated 26.07.2023. He submits that though the petitioner has been named in the FIR in question which has been annexed as Annexure P-1, however, no specific injury, much less fatal, on the person of the deceased has been attributed to him. It has been further submitted that as per the allegations in the FIR, the complainant party was attacked with datars, however, these allegations stood belied from the fact that as no such injuries, with datars, stood reflected in the Post Mortem Report of the deceased. It has also been submitted that it

is not disputed that deceased succumbed to firearm injuries which were attributed to co-accused Cheti, who had since been extended the concession of bail by the Trial Court vide order dated 25.08.2023. Learned counsel has, thus, prayed that the petitioner who has been in custody for more than 02 years having been arrested on 08.10.2021 be extended the concession of bail as only 04 prosecution witnesses, including the eye witness, out of the 32 cited, have been examined till date, coupled with the fact that one of the eye witnesses, who allegedly received injuries in the occurrence in question had since left the country and for the last many dates before the Trial Court had not put in an appearance to get his evidence recorded; hence, his further incarceration in the aforementioned facts and circumstances, would serve no useful purpose.

3. Per contra, learned State counsel while opposing the prayer made by learned counsel for the petitioner, on instructions from ASI Baljinder Singh, has not disputed that the petitioner has not been attributed the fatal injuries on the person of the deceased and still further there was no corroborative evidence with respect to the injuries inflicted by the petitioner with a datar on the person of the deceased. However, he submits that the petitioner had been specifically attributed injuries on the person of injured Gurwinder Singh, who had since left the country. It has, however, not been disputed by the learned State counsel, on instructions, that despite the case being adjourned repeatedly the trial has come to a standstill on account of the injured witness Gurwinder Singh failing to step into the witness box to depose.

4. I have heard learned counsel for the parties and perused the

material placed on record.

5. It has not been disputed by the learned State counsel that the petitioner has not been attributed the fatal injury on the person of the deceased. Though, as per the case of the prosecution, specific injuries have been attributed to the petitioner on the person of injured Gurwinder Singh, however, as not controverted by the learned State counsel, injured Gurwinder Singh is not in India and has not appeared before the Trial Court to get his evidence recorded. Thus, there is no likelihood of the trial concluding in the near future as 28 prosecution witnesses still remain to be examined. The complainant/eye witness already stands examined. Hence, further incarceration of the petitioner would serve no useful purpose. In the facts and circumstances as enumerated hereinabove, this Court deems it fit to extend the concession of bail to the petitioner.

6. 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.

11.10.2023

Vinay

(MANJARI NEHRU KAUL)
JUDGE

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