

212 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-5862-2022
Decided on : 21.04.2023

Amit @ Amit Kumar

..... Petitioner

Versus

State of Haryana

..... Respondent

CORAM : HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present : Mr. Ravi Partap Singh, Advocate
for the petitioner.

Mr. Chetan Sharma, AAG, Haryana.

Mr. S.K.Yadav, Advocate
for the complainant.

Manjari Nehru Kaul, J.(Oral)

1. Instant petition has been filed under Section 439 Cr.PC for grant of regular bail to the petitioner in case FIR No.279 dated 18.06.2020 under Sections 148, 149, 323, 302, 506 IPC and Section 25 of Arms Act registered at Police Station City Mahendergarh District Mahendergarh.

2. While drawing the attention of this Court to the allegations levelled in the FIR in question, learned counsel for the petitioner submits that a bare perusal of the FIR reveals that no specific injury much less on the person of the deceased or for that matter on any of the stamped witnesses has been attributed to him. It has been submitted that the only role attributed to the petitioner is of having come to the place of occurrence along with the co-accused and thereafter having indulged in abusive language and having

assaulted the injured witnesses. Learned counsel further contends that while stepping into the witness box, injured witness, PW-9 Krishan Kumar, categorically deposed that the petitioner was not present nor was one of the assailants, who had allegedly participated in the crime in question. In support, learned counsel has produced the copy of deposition of PW-9 Krishan Kumar, which is taken on record subject to all just exceptions. Learned counsel, thus, submits that a false and fabricated case having been planted upon the petitioner, was clearly apparent. Learned counsel furthermore submits that the petitioner has now been in custody since 18.06.2020 and only 12 out of the 21 prosecution witnesses cited, have been examined till date. Hence, there is no likelihood of the trial concluding in the near future.

3. Per contra learned State counsel assisted by counsel for the complainant have opposed the prayer and submissions made by the counsel opposite. Learned State counsel submits that no doubt, there is no specific attribution qua the petitioner with respect to the injuries inflicted on the injured witness, however, it had come during investigation that the petitioner had come to the spot along with the co-accused armed with an ironed rod with which he inflicted injuries on the injured witnesses. Learned counsel for the respondents at the same time have not been able to controvert that injured witness PW-9 Krishan failed to identify the petitioner during trial.

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

5. The trial is unlikely to conclude in the near future as 9 prosecution witnesses still remain to be examined. One of the material witnesses i.e. PW-9 Krishan as conceded by the learned State counsel failed to identify the petitioner during trial. Hence, in the facts and circumstances as enumerated hereinabove, 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.

(MANJARI NEHRU KAUL)
JUDGE

21.04.2023

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Whether speaking/reasoned:

Yes/No

Whether reportable :

Yes/No