

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

CRM-M No.5917 of 2023

Date of decision: 9th February, 2023

Prem Kumar

... Petitioner

Versus

State of Punjab

... Respondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present: Mr. S.S. Maini, Advocate for the petitioner.

Mr. Sanish Girdhar, Assistant Advocate General, Punjab
for the respondent /State.

MANJARI NEHRU KAUL, J. (ORAL)

This is first petition of the petitioner filed under Section 439 Cr.P.C. in case bearing FIR No.0035 dated 28.04.2022 under Sections 302, 149, 148 IPC (Section 120-B IPC added later on) registered at Police Station Sadar, District Moga.

Learned counsel for the petitioner inter alia submits that the false implication of the petitioner in the case in hand is evident from the fact that neither was he named in the FIR in question nor did the material witnesses while stepping into the witness box, support the case of the prosecution, as a result of which they were declared hostile. Learned counsel submits that since the material witnesses did not support the case of the prosecution coupled with the fact that as many as 18 prosecution witnesses remain to be examined, further incarceration of the petitioner would serve no useful purpose.

Per contra, learned State counsel while opposing the prayer and submissions made by the counsel opposite, has not been able to

dispute that the petitioner was neither named in the FIR in question nor attributed any role. He has also not been able to dispute that while stepping into the witness box, the alleged eye-witness i.e. complainant failed to support the case of the prosecution as a result of which he was declared hostile. However, learned State counsel submits that the petitioner was nominated as an accused in the disclosure statement of co-accused who inflicted injuries on the person of the deceased and still further it had come to light during investigation that the petitioner had conspired with the co-accused to carry out the crime in question.

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

The petitioner has now been in custody since 29.04.2022 and there is no likelihood of the trial concluding in the near future as only 5 prosecution witnesses stand examined. In the facts and circumstances, as enumerated hereinabove, this Court deems it fit to allow the instant petition. The petition as such is allowed and the petitioner is admitted to bail to the satisfaction of the trial Court/Duty Magistrate. However, it is made clear that anything contained hereinabove shall not be construed to be an expression of opinion on the merits of the case.

(MANJARI NEHRU KAUL)
JUDGE

February 9, 2023

rps

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