

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

211

**CRM-M-6177-2023
Date of decision: 10.02.2023**

Avtar Singh @ Bata

.....Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present : Mr. Harpal Singh Sidhu, Advocate
for the petitioner.

Mr. Amit Rana, Sr. DAG, Punjab.

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.86 dated 25.08.2020 lodged under Sections 307, 387, 506 and 34 of the IPC and Section 25 of the Arms Act, 1959 (Section 120-B of the IPC added lateron) registered at Police Station Samalsar, District Moga.

Learned counsel for the petitioner submits that the petitioner was nominated as an accused pursuant to disclosure statement of co-accused wherein he stated that the petitioner had carried out a recce qua the location of the complainant. He further submits that the false implication of the petitioner in the FIR in question finds credence from the fact that both the material witnesses i.e. the complainant and his wife while stepping into the witness box failed to support the case of the prosecution as a result of which they were declared hostile. In support, learned counsel has drawn the attention of this Court to their depositions which have been annexed as Annexures P-2 and P-3 wherein the said fact stands reflected. He

further submits that the petitioner has now been in custody since 02.11.2020 and in the above circumstances, his further incarceration would serve no useful purpose moreso when both the material witnesses stand examined.

Per contra, learned State counsel on instructions has not been able to dispute the submissions made by the counsel opposite qua the role attributed to him in the crime in question and also qua both the material witnesses having been declared hostile during trial.

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

Both the material witnesses i.e. the complainant and his wife stand examined and failed to support the case of the prosecution. The trial will take considerable time to conclude as prosecution evidence is still underway.

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.

10.02.2023

Vinay

(MANJARI NEHRU KAUL)
JUDGE

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