

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

CRM-M No.7010 of 2023

Date of decision: 14th February, 2023

Devender @ Kalia

... Petitioner

Versus

State of Haryana

... Respondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present: Mr. Saurabh Dalal, Advocate for the petitioner.

Mr. Rahul Mohan, Dy. Advocate General, Haryana
for the respondent/State.

MANJARI NEHRU KAUL, J. (O&M)

Petitioner in the instant petition has sought concession of regular bail in case bearing FIR No.79 dated 19.03.2021 under Sections 148, 149, 302, 120-B IPC and Section 25 of the Arms Act, 1959 registered at Police Station Sahlawas, District Jhajjar.

Learned counsel for the petitioner inter alia contends that no specific role was attributed to the petitioner in the crime in question other than his presence being shown at the time of alleged occurrence. He submits that while stepping into the witness box, both the material witnesses i.e. PW-1 Ravinder Singh and PW-2 Ajit, made self-contradictory statements and failed to support the case of the prosecution and were resultantly declared hostile. He submits that similarly situated co-accused Sandeep alias Ponga has since been

extended the concession of bail by a Coordinate Bench of this Court vide order dated 14.10.2022. Learned counsel further submits that there is no likelihood of the trial concluding in the near future as only 4 out of the 30 prosecution witnesses cited have been examined till date and thus, in the circumstances, further incarceration of the petitioner would serve no useful purpose.

Per contra, learned State counsel on instructions from ASI Zile Singh has vehemently opposed the prayer and submissions made by the counsel opposite. He however, has not been able to dispute that both the material witnesses including the eye-witness to the crime in question, were declared hostile during trial. He has also not been able to controvert that no specific role was attributed to the petitioner in the crime in question, except that his presence had been shown at the spot along with the co-accused. He however submits that all the accused with common intention carried out the crime in question, wherein the deceased was fatally fired at by co-accused Sumit.

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

The petitioner has now been in custody since 22.03.2021 and there is no likelihood of the trial concluding in the near future as only 4 prosecution witnesses out of the 30 cited have been examined and out of these 04 prosecution witnesses, two of the material witnesses have not supported the case of the prosecution. 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 14, 2023
rps

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