

219 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-12752-2023
Decided on : 20.03.2023

Bohar Singh

..... Petitioner

Versus

State of Punjab

..... Respondent

CORAM : HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

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

Mr. Amit Rana, Sr. DAG, Punjab.

Manjari Nehru Kaul, J.(Oral)

Instant petition has been filed under Section 439 Cr.PC for grant of regular bail to the petitioner in case FIR No.35 dated 28.04.2022 under Sections 302, 149, 148 IPC (Section 120-B IPC added later on vide DDR No.40 dated 29.04.2022) registered at Police Station Sadar Moga District Moga.

Learned counsel for the petitioner *inter alia* contends that false implication of the petitioner in the FIR in question finds credence from the fact that all the four material witnesses including the alleged eyewitness PW-5 Sewak Singh while stepping into the witness box failed to support the prosecution case, as a result of which, they all were declared hostile. In support of his submissions, learned counsel has drawn the attention of this Court to the testimony of all the material witnesses including the complainant and PW-5 Sewak Singh (Annexures P-3 to P-5). Learned counsel, thus, submits that in the circumstances, further incarceration of the petitioner would serve no useful purpose as now he has been in custody for almost a year having been arrested on

29.04.2022. It has also been contended that the trial shall take considerable time to conclude as 19 prosecution witnesses remain to be examined.

Per contra learned State counsel while opposing the prayer made by counsel opposite on instructions submits that no doubt, all the four material witnesses were declared hostile during trial, however, PW-5 Sewak Singh had taken the deceased in an injured condition to his house and disclosed that he had been inflicted injuries by some boys outside the factory where the latter was employed. Learned State counsel further submits that the petitioner inflicted two blows with a dang on the person of the deceased on the left side of his back and thus, prays for dismissal of the instant petition.

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

The petitioner has been in custody since 29.04.2022. The trial is unlikely to conclude in the near future as 19 prosecution witnesses remain to be examined. All the material witnesses including the complainant and alleged eyewitness PW-5 Sewak Singh have failed to support the case of the prosecution.

In the facts and circumstances as enumerated hereinabove keeping in view the long incarceration of the petitioner, 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.

20.03.2023
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(MANJARI NEHRU KAUL)
JUDGE

Whether speaking/reasoned:
Whether reportable :

Yes/No
Yes/No