

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M No.12647 of 2023 (O&M)
Date of decision: 29th November, 2023

Azeem Khan

... Petitioner

Versus

State of UT Chandigarh

... Respondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present: Ms. Tanu Bedi, Mr. Sumit Kumar & Mr. Karanvir Nanda,
Advocates for the petitioner.

Mr. Abhinav Gupta, APP UT Chandigarh
for the respondent/State.

MANJARI NEHRU KAUL, J. (ORAL)

1. The petitioner is seeking the concession of bail under Section 439 Cr.P.C. in case FIR No.0077 dated 22.05.2022 under Sections 304, 34 IPC (Section 302 IPC added later on) registered at Police Station Manimajra, UT Chandigarh.

2. While drawing the attention of this Court to the allegations levelled in the FIR, which has been annexed with the petition, learned counsel appearing on behalf of the petitioner submits that firstly, the petitioner was not named therein and later on during investigation, he was nominated as an accused only because he was accompanying the co-accused at the time of alleged occurrence. Learned counsel has further submitted that even as per the allegations levelled against the petitioner, which have been corroborated by the complainant while stepping into the

witness box as PW-2, the petitioner had not inflicted any injury much less fatal on the person of the deceased Suraj. In support, learned counsel has drawn the attention of this Court to the deposition of the complainant PW-2 Krishan Kumar, which has been annexed as (Annexure P-4) with CRM-49946-2023, wherein he has categorically deposed that one of those unknown assailants, who gave fist blows to the deceased, was co-accused Kunal. Learned counsel submits that in the circumstances, more so when the complainant, while deposing before the Court, had not levelled any allegation against the petitioner, his further incarceration would serve no useful purpose, as now he has been in custody since 30.05.2022, coupled with the fact that 23 prosecution witnesses still remain to be examined. A prayer has, therefore, been made for extending the concession of bail to the petitioner.

3. Per contra, learned State counsel while opposing the prayer and submissions made by the counsel opposite, on instructions from SI Rajesh Kumar, has not been able to dispute the submissions made by the counsel opposite that other than presence of the petitioner being shown at the time of the alleged occurrence, when Suraj was done to death by the co-accused, no role much less injury had been attributed to the petitioner. On a pointed query put to the learned State counsel, he on instructions has informed the Court that the petitioner is not involved in any other criminal case.

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

5. The petitioner has now been in custody since 30.05.2022. The sole material witness in the case in hand, i.e. complainant, stands examined and as not disputed by the learned State counsel, did not level any allegation against the petitioner much less of having inflicted any injury on the person of the deceased. In the facts and circumstances, as enumerated hereinabove, this Court thus deems it fit to extend the concession of bail to the petitioner. 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 observed hereinabove shall not be construed to be an expression of opinion on the merits of the case.

(MANJARI NEHRU KAUL)
JUDGE

November 29, 2023

rps

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