

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-16624 of 2022 (O&M)

Date of decision: 25.09.2023

Mandeep Singh

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present: Mr. Navjot Singh, Advocate for the petitioner.
Mr. Mohit Kapoor, Addl.AG, Punjab.

MANJARI NEHRU KAUL, J. (ORAL)

1. The petitioner is seeking the concession of bail under Section 439 of the Cr.P.C. in case FIR No.05 dated 08.01.2020 under Sections 302/34 IPC (Sections 120-B IPC and Section 25 of Arms Act, 1959 added later on) registered at P.S Jandiala, District Amritsar.

2. Learned counsel for the petitioner has reiterated his submissions made on the last date of hearing that despite the petitioner having been in judicial custody since 16.01.2020, the trial had not progressed further on account of non-appearance of the prosecution witnesses, even thoughailable warrants had been issued to procure the presence of two of the material prosecution witnesses i.e PW-Jaspal Singh and Jeewan Singh. He has further submitted that PW1 Jaswant Singh, before whom the petitioner allegedly suffered his extra judicial confession, while deposing during trial neither named the petitioner nor made any mention about the extra judicial confession made to him and rather stated that one Vishaldeep came and informed him that “some persons had attacked the deceased”. In support, learned counsel has drawn the attention of this Court to Annexure P-2, which is the deposition of PW1-Jaswant Singh.

3. Per contra, learned State counsel while opposing the prayer made by learned counsel for the petitioner, on instructions, has not been able to dispute the submissions made by the counsel opposite qua PW-Jeewan Singh having failed to appear before the trial Court to record his statement despite the case having been adjourned on various dates. He has also not disputed the contents of deposition of PW1-Jaswant Singh qua his complete silence regarding the extra judicial confession allegedly suffered by the petitioner before him.

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

5. The case in hand hinges on circumstantial evidence. The petitioner, as not disputed by the learned State counsel, came to be arraigned as an accused on the basis of the extra judicial confession made by him before PW1-Jaswant Singh. PW1-Jaswant Singh already stands examined.

6. Further, the petitioner has been in custody since 16.01.2020. The trial has come to a virtual standstill and is unlikely to conclude as 16 prosecution witnesses still remain to be examined and as not disputed by the State counsel, the remaining material witnesses have not been appearing before the trial Court. In the facts and circumstances as enumerated hereinabove, this Court, thus, deems it fit to extend the concession of bail to the petitioner.

6. Accordingly, 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.

September 25, 2023
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(MANJARI NEHRU KAUL)
JUDGE

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

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