

218 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-12830-2023
Decided on : 24.03.2023

Dev Karan Bhagat @ Dev Karan Rajput

..... Petitioner

Versus

State of Punjab

..... Respondent

CORAM : HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present : Mr. Piyush Sharma, 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.211 dated 29.11.2020 under Sections 302 and 34 IPC (later on Section 34 IPC deleted and Sections 148 and 149 IPC added) registered at Police Station Phase 1, SAS Nagar.

Learned counsel to the petitioner *inter alia* contends that the FIR in question was registered by the wife of the deceased, who stated therein that she had received a telephonic message from the friend of her deceased husband to the effect that some unidentified/unknown persons had hit him with some piercing weapon on his chest, as a result of which, he had got injured and had been admitted to Civil Hospital, Mohali. However, later on her husband died on account of the injury inflicted upon him. Learned counsel while drawing the attention of this Court to the FIR (Annexure P-1) submits that a perusal of the same reveals that the complainant had not named or alleged any role to any of

the accused much less the petitioner in the crime in question. Learned counsel further submits that the friend of the deceased, who allegedly telephonically informed the complainant about the occurrence in question and who evidently was an eyewitness to the occurrence in question, has neither been cited as a witness by the prosecution nor his statement under Section 161 Cr.PC had been recorded. Learned counsel still further submits that it was only after 10 days, a statement was made by one Sunny Sharma, under Section 161 Cr.PC (Annexure P-2), wherein he named all the accused and spelt out their respective roles in the crime in question. Learned counsel while drawing the attention of this Court to the statement of said Sunny Sharma (Annexure P-2) submits that even therein the petitioner was not named and it was only alleged that two unidentified persons held the deceased by his arms, when the fatal injury was inflicted upon him by the co-accused Ranjay @ Raj @ Chhote. Learned counsel submits that on the face of it, it was a false and fabricated case, which had been planted upon the petitioner and even the alleged eyewitness while deposing before the trial court did not attribute any specific role much less fatal injury to the petitioner. It has also been contended that the petitioner has no criminal past and co-accused Sumit, who too has been attributed an identical role, has been extended the concession of bail by this Court vide order dated 10.01.2023.

Per contra, learned State counsel while opposing the prayer and submissions made by counsel opposite has not been able to controvert that the alleged eyewitness Arun did not attribute any specific role or injury to the petitioner. Learned State counsel has also not been able to controvert that even in the statement recorded under Section 161 Cr.PC by Sunny Sharma, allegations had been levelled against “two unidentified persons” who held the

deceased from his arms when the fatal injuries were inflicted upon him. Learned State counsel however, submits that the petitioner was one of the two unidentified persons, who held the deceased from his arms at the time of the crime in question.

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

The petitioner has been in custody since 07.12.2020 and only two witnesses out of the 15 cited, have been examined so far, which also include one of the alleged eyewitnesses, hence, there is no likelihood of the trial concluding in the near future. As per the deposition of alleged eyewitness Arun, no specific role much less injury has been attributed to the petitioner in the crime in question.

This Court, in the facts and circumstances as enumerated hereinabove, deems it appropriate to extend the concession of bail to the petitioner as the trial shall take considerable time to conclude as only 02 witnesses have been examined till now. 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.

(MANJARI NEHRU KAUL)
JUDGE

24.03.2023

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Whether speaking/reasoned:

Yes/No

Whether reportable :

Yes/No