

219 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-13199-2023
Decided on : 22.03.2023

Nishant

..... Petitioner

Versus

State of Haryana

..... Respondent

CORAM : HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present : Mr. Sanpreet Sandhu, Advocate
for the petitioner.

Mr. Chetan Sharma, AAG, Haryana.

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.119 dated 14.03.2019 under Sections 148, 149, 302, 506, 120-B and 216 IPC and Section 25 of Arms Act registered at Police Station Rai District Sonipat.

Learned counsel to the petitioner, at the outset, submits that the petitioner was not named in the FIR in question, which was registered at the instance of brother of the deceased. Learned counsel further submits that all the material witnesses including the eyewitness and the complainant i.e. brother of the deceased, while stepping into the witness box failed to support the case of the prosecution as a result of which they were declared hostile. In support, learned counsel has drawn the attention of this Court to the deposition of the complainant (Annexure P-2), wherein the factum of complainant having been declared hostile stands reflected. Learned counsel has also drawn the attention of this Court to

Annexure P-3, which is a copy of the deposition of the eyewitness, who too did not support the case of prosecution during trial. Learned counsel still further submits that the petitioner was named in the disclosure statement of co-accused Suraj, who had since been extended the concession of bail by this Court vide order dated 12.10.2022 (Annexure P-7). Learned counsel contends that there is no likelihood of the trial concluding in the near future as only 23 out of the 81 prosecution witnesses cited have been examined till date. Learned counsel thus, prays that the petitioner, who has now been in custody since 20.03.2019, be extended the concession of bail.

Per contra, learned State counsel while opposing the prayer has not been able to controvert that all the material witnesses including the complainant while stepping into the witness box, did not support the case of prosecution, as a result of which, they were declared hostile. Learned State counsel has also not been able to controvert that the petitioner was not named in the FIR in question and he came to be nominated as an accused pursuant to the disclosure statement allegedly made by co-accused Suraj. Learned State counsel, however, contends that in the disclosure statement it was stated that the petitioner was accompanying the other assailants at the time of alleged occurrence and had fired at the deceased.

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

The petitioner has been in custody since 20.03.2019 and the trial shall take considerable time to conclude as 81 prosecution witnesses have been

cited and only 23 PWs stand examined till date coupled with the fact that the complainant and other material witnesses turned hostile during trial.

This Court, in the facts and circumstances as enumerated hereinabove, deems it appropriate 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.

(MANJARI NEHRU KAUL)
JUDGE

22.03.2023

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Whether speaking/reasoned:

Yes/No

Whether reportable :

Yes/No