

[213] IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-13191-2023
Date of Decision : 16.10.2023

Sachin Kumar ...Petitioner

versus

State of PunjabRespondent

Coram : HON'BLE MS. JUSTICEMANJARI NEHRU KAUL

Present : Mr. Ankit Rana, Advocate for the petitioner.

Mr. Mohit Kapoor, Additional Advocate
General, Punjab.

MANJARI NEHRU KAUL, J. (ORAL)

[1] The petitioner is seeking the concession of bail under Section 439 Cr.P.C. in case FIR No.25 dated 28.02.2021 under Sections 304, 201, 377, 436, 379 and 411 IPC registered at Police Station Division No.3, District Jalandhar.

[2] Learned counsel for the petitioner *inter alia* contends that a false and fabricated case has been planted upon the petitioner for having allegedly forced the deceased-Sanjeet to consume excessive liquor and thereafter having attempted unnatural sex with him. Learned counsel submits that there is no corroborative evidence, much less medical, to substantiate the allegations levelled against the petitioner in the FIR in question. It has further been submitted that as per the admitted case of the complainant, he was not present at the time of the alleged occurrence and whatever he had alleged in the FIR was 'hearsay'.

[3] Learned counsel submits that after the petitioner was arrested on 28.02.2021, thereafter challan was presented on 27.04.2021 and charges framed on 08.08.2022. However, till date, only 03 prosecution witnesses out of the 21 cited had been examined. Hence, trial was unlikely to conclude in the near future.

[4] Learned counsel for the petitioner has further submitted that the petitioner has clean antecedents as he is not involved in any other criminal case.

[5] *Per contra*, learned State Counsel, while opposing the prayer made by counsel opposite on instructions from ASI Dalip Singh, has not been able to dispute that the postmortem report was completely silent *qua* the alleged attempted sexual assault on the deceased. However, he submits that the petitioner had made the deceased consume excessive liquor which led to his death.

[6] Learned State Counsel has also not disputed that as on date only 03 prosecution witnesses stand examined and the next date fixed before the trial Court is 07.11.2023 when some more prosecution witnesses are likely to be examined.

[7] I have heard learned counsel for the parties and perused the relevant material on record.

[8] The petitioner has been in custody for more than 2 ½ years having been arrested on 28.02.2021. It is apparent that the trial has not made much progress, as only 03 prosecution witnesses stand examined.

In addition to this, the allegations *qua* the attempted sexual assault on the

deceased is not corroborated by any medical evidence. 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, subject to his furnishing heavy surety 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

16.10.2023
'Rajneesh'

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