

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M No.16484 of 2023
Date of decision: 7th August, 2023

Yogesh @ Billi

... Petitioner

Versus

State of Haryana

... Respondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present: Mr. Pardeep S. Poonia & Mr. Pulkit Dhanda, Advocates
for the petitioner.

Mr. Rahul Mohan, Sr. Dy. Advocate General, Haryana
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.312 dated 22.11.2018 under Sections 148, 149, 216, 302, 120-B IPC and Section 25/54/59 of the Arms Act, 1959 registered at Police Station Civil Lines, District Rohtak. This is the third petition filed by the petitioner.

2. On a pointed query put to the learned counsel for the petitioner as to what was the material change in circumstances after withdrawal of the previous petition on 26.09.2022, wherein similar relief had been sought, he has submitted that two more prosecution witnesses stand examined.

3. Learned counsel for the petitioner, while drawing the attention of this Court to the allegations levelled in the FIR in question,

has submitted that the petitioner had allegedly fired the fatal shot at the deceased with his fire-arm. However, subsequently in his supplementary statement, the complainant PW-1 Amit (eye-witness as well as brother of the deceased) had come with a contrary version and attributed the fatal injury to co-accused Akash @ Golu. Learned counsel has further submitted that it was also a matter of record that as per the post mortem report, the deceased had received a single fire arm injury. It has still further been urged that the false implication of the petitioner in the crime in question finds due credence from the fact that both the eye-witnesses to the occurrence in question, i.e. PW-1 Amit as well as PW-2 Parveen (uncle of the deceased), while stepping into the witness box, had not supported the case of the prosecution and had been declared hostile. In support learned counsel has drawn the attention of this Court to the deposition of both these witnesses, which have been annexed as Annexures P-2 and P-3. It has thus, been urged that in the aforementioned facts and circumstances, further incarceration of the petitioner would serve no useful purpose, more so, when 22 prosecution witnesses still remain to be examined.

4. Per contra, learned State counsel on instructions ASI Anil, has not been able to dispute that both the material witnesses stand examined and they had been declared hostile during trial. On further instructions, learned State counsel has informed the Court that the main accused Akash alias Golu, whose name was disclosed in the supplementary statement by the complainant, as being the one, who had fired the fatal injury on the person of the deceased, has since been

extended the concession of bail by a Coordinate Bench of this Court vide order dated 25.07.2022 (Annexure P-5).

5. I have heard learned counsel for the parties and perused the relevant material on record, including the depositions of PW-1 and PW-2, which have been annexed as Annexures P-2 and P-3.

6. The petitioner has been in custody for more than 4 years, having been arrested on 29.01.2019. Both the material witnesses stand examined and, as already noticed hereinabove, were declared hostile by the trial Court. The trial is unlikely to conclude in the near future as 22 prosecution witnesses remain to be examined. 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

August 7, 2023
rps

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