

216 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-18172-2022
Decided on : 24.07.2023

Suraj @ Doctor

..... Petitioner

Versus

State of Haryana

..... Respondent

CORAM : HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present : Mr. Rakesh Kumar Lathwal, Advocate
for the petitioner.

Mr. Rahul Mohan, Sr. DAG, Haryana.

Manjari Nehru Kaul, J.(Oral)

1. The petitioner is seeking concession of regular bail in case FIR No.217 dated 23.05.2020 under Sections 302, 120-B, 341 and 34 IPC (Section 307 IPC added later on) and Section 25 and 27 (added later on) of the Arms Act registered at Police Station Kharkhoda District Sonipat.

2. Learned counsel for the petitioner submits that the petitioner has been in custody for more than 3 years having been arrested on 21.06.2020 and the material witness in the case in hand i.e. complainant (brother of the deceased), who was also an alleged witness to the crime in question, while stepping into the witness box as PW-2 had not supported the case of the prosecution as a result of which he was declared hostile. In support, learned counsel has drawn the attention of this Court to the deposition of the complainant, which has been annexed as Annexure P-3. It has also been

submitted by the learned counsel that a perusal of the FIR, which has been reproduced in the body of the petition further reveals that though the complainant had named the two co-accused, who had allegedly fired upon the deceased, however, as far as the petitioner is concerned, he was not named therein. Learned counsel submits that in the circumstances, it is evident that the petitioner has been falsely implicated in the case in hand. Learned counsel for the petitioner further submits that the wife of the deceased, who came to the spot after the deceased had been fired at, had not been putting in an appearance despite non-bailable warrants issued to secure her presence. In support, learned counsel has placed on record the zimni orders passed by the Court below.

3. Per contra, learned State counsel while opposing the prayer made by the counsel opposite has not been able to dispute that the complainant/eyewitness to the murder of the deceased Rajesh had been declared hostile during trial. Learned State counsel has also not been able to dispute that while two of the co-accused had been named and attributed a role in the crime in question, however, as far as petitioner is concerned, he had not been named therein. However, learned State counsel on instructions from ASI Ashok submits that the petitioner was riding the motorcycle on which the co-accused were pillion riding, who allegedly fired at the deceased.

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

5. The case in hand rests on eyewitness account. Since the eye-witness has not supported the case of the prosecution and was declared hostile, further incarceration of the petitioner, in the circumstances, would serve no useful purpose, more so, as he has been in custody for more than 3 years now, having been arrested on 21.06.2020. Accordingly, the present petition is allowed. The petitioner be admitted to bail to the satisfaction to the trial Court/Duty Magistrate concerned.

6. 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.

24.07.2023
sonia

(MANJARI NEHRU KAUL)
JUDGE

Whether speaking/reasoned:
Whether reportable :

Yes/No
Yes/No