

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M No.18037 of 2023
Date of decision: 21st April, 2023

Sukhwinder Singh @ Sukh

... Petitioner

Versus

State of Punjab

... Respondent

CORAM: HON’BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present: Mr. M.S. Basra, Advocate for the petitioner.
Mr. Amit Rana, Sr. Deputy Advocate General, Punjab
for the respondent/State.

MANJARI NEHRU KAUL, J. (ORAL)

This is fourth petition filed by the petitioner under Section 439 Cr.P.C. for grant of the concession of bail in case bearing FIR No.123 dated 09.11.2018 under Sections 324, 323, 148, 149 IPC (Sections 302, 307 IPC and Sections 3(2), (5)(V)(a) of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 added later on) registered at Police Station Sadar Gurdaspur, District Gurdaspur.

On a pointed query put to the learned counsel for the petitioner as to what was the material change in circumstances subsequent to withdrawal of the previous petition seeking similar relief in March 2022, he submits that as many as 5 prosecution witnesses including the complainant and injured Suresh Kumar, have been

examined. It has been further submitted that both the material witnesses i.e. the complainant as well as the injured witness Suresh Kumar, 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 both the witnesses (Annexures P-1 and P-2). He thus, submits that the false implication of the petitioner in the case in hand finds credence from the above facts and in view thereof, he be extended the concession of bail as 17 prosecution witnesses out of total 22 cited still remain to be examined.

Per contra, learned State counsel while opposing the prayer and submissions made by the counsel opposite, submits that as per the allegations levelled in the FIR in question, the petitioner was armed with a Kirich with which he inflicted a blow on the left side of the chest of the deceased and another blow on the abdomen of the injured witness Suresh Kumar. However, at the same time, he has not been able to controvert that both the material witnesses i.e. the complainant as well as the injured witness Suresh Kumar while stepping into the witness box, had failed to support the case of the prosecution as a result of which they were declared hostile. Learned State counsel, however submits that the next date of hearing fixed before the trial Court is 26.05.2023 when a couple of other prosecution witnesses are likely to be examined.

On a pointed query put to the learned State counsel qua the criminal antecedents of the petitioner, he, on instructions submits that the petitioner is involved in another criminal case, though the offences for which he has been charged are only under Sections 323, 324 and 452 IPC.

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

The petitioner has been in custody since 29.11.2018. Both the material witnesses i.e. the complainant as well as the injured witness stand examined and as already apprised by the learned State counsel, they have turned hostile. The trial is unlikely to conclude in the near future as only 5 out of 22 prosecution witnesses stand 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 contained hereinabove shall not be construed to be an expression of opinion on the merits of the case.

(MANJARI NEHRU KAUL)
JUDGE

April 21, 2023
rps

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