

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M No.20584 of 2023
Date of decision: 2nd May, 2023

Avtar Singh

... Petitioner

Versus

State of Punjab

... Respondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present: Mr. Gobind S. Randhawa, Advocate for the petitioner.
Mr. Vinay K. Gupta, Asst. Advocate General, Punjab
for the respondent/State.

MANJARI NEHRU KAUL, J. (ORAL)

The petitioner is seeking the concession of regular bail in case bearing FIR No.123 dated 09.11.2018 under Sections 302, 307, 201, 324, 323, 148, 149 IPC and Section 3(2)(5)V(a) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 registered at Police Station Sadar Gurdaspur, District Gurdaspur.

At the outset, learned counsel for the petitioner submits that out of the 22 prosecution witnesses cited, 5 have been examined which include the complainant as well as the injured witness Suresh. He further submits that both these material witnesses while stepping into the witness box, had failed to support the case of the prosecution, as a result of which they were declared hostile. In support of his submissions, learned counsel for the petitioner has drawn the attention

of this Court to the deposition of the injured witness Suresh, which has been annexed as Annexure P-2 and the deposition of the complainant which is annexed as Annexure P-3. He submits that a false and fabricated case having been planted upon the petitioner is thus evident from the above circumstances. It has further been submitted that since 17 prosecution witnesses remain to be examined, further incarceration of the petitioner would serve no useful purpose as he has now been in custody since 11.08.2022.

Per contra, learned State counsel while opposing the prayer and submissions made by the counsel opposite, submits that no doubt both, the complainant as well as the injured witness Suresh, failed to support the case of the prosecution as a result of which they were declared hostile, however, the petitioner had actively participated in the crime in question by inflicting a knife blow on the abdomen of the deceased and another blow on the back of the injured witness PW-2 Suresh. On a pointed query put to the learned State counsel qua the criminal antecedents of the petitioner, he, on instructions, has apprised the Court that the petitioner does not have a criminal past and there is no other criminal case pending against him.

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

The petitioner has now been in custody since 11.08.2022. Since all the material witnesses including the complainant as well as

the injured stamped witness PW-2 Suresh stand examined, coupled with the fact that they have not supported the case of the prosecution, further incarceration of the petitioner would serve no useful purpose, more so, when the trial shall take considerable time to conclude as 17 prosecution witnesses still 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 contained hereinabove shall not be construed to be an expression of opinion on the merits of the case.

(MANJARI NEHRU KAUL)
JUDGE

May 2, 2023
rps

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