

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CRM-M No.21793 of 2023
Date of decision: 8th May, 2023

Shubham @ Shubham Kumar

... Petitioner

Versus

State of Punjab

... Respondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present: Mr. Chandan S. Rana, Advocate for the petitioner.
Mr. Jaiteshwar S. Bhandari, AAG Punjab
for the respondent/State.

MANJARI NEHRU KAUL, J. (ORAL)

The petitioner is seeking the concession of bail under Section 439 Cr.P.C. in case FIR No.156 dated 03.08.2019 under Sections 302, 120-B, 201 IPC registered at Police Station Dehlon, District Ludhiana (Punjab).

While drawing the attention of this Court to the allegations levelled in the FIR, which has been annexed as Annexure P-1, learned counsel for the petitioner submits that the complainant (brother of the deceased) while registering the FIR, did not even by way of a whisper, raise suspicion qua the involvement of any person, much less the petitioner, however, on the following day, a supplementary statement was made by the complainant wherein he raised a suspicion qua the

involvement of the accused including the petitioner in the murder of his brother on account of an alleged illicit relationship between co-accused Gautam Kumar @ Rinku and the wife of the deceased. Learned counsel submits that while stepping into the witness box, the complainant failed to support the case of the prosecution and failed to identify the petitioner, as a result of which he was declared hostile. It has also been submitted that similarly situated co-accused Gautam, to whom the motive to commit the crime had been attributed, had since been extended the concession of bail by this Court vide order dated 23.05.2022 (Annexure P-5). A prayer has, therefore been made that since the complainant, on whose supplementary statement the petitioner came to be nominated as an accused, failed to support the case of the prosecution, further incarceration of the petitioner would serve no useful purpose. Learned counsel also submits that trial shall take considerable time to conclude as only 3 out of 18 prosecution witnesses cited, have been examined so far.

Per contra, learned State counsel while opposing the prayer and submissions made by the counsel opposite, on instructions, has submitted that the motive to commit murder of deceased Raju was an alleged illicit relationship between co-accused Gautam and the wife of the deceased and since the petitioner was a friend of co-accused Gautam, he too had actively participated in the crime in question. He

on instructions, submits that the deceased was inflicted multiple stab wounds with an Iron Dah, which was also recovered pursuant to the respective disclosure statements made by the accused including the petitioner. However, learned State counsel has not been able to dispute that the petitioner was named as an accused in the supplementary statement of the complainant recorded on the following day of the murder and the complainant had turned turtle during trial. He submits that the next date of hearing fixed before the trial Court is 29.05.2023 when some more witnesses are likely to be examined.

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

The case in hand rests on circumstantial evidence. The FIR in question was registered against unknown persons. It was only subsequently in a supplementary statement made by the complainant that the petitioner came to be nominated as an accused. However, as conceded by the learned State counsel, the complainant failed to support the case of the prosecution and as a result of which he was declared hostile. The petitioner has now been in custody since 04.08.2019 and since 15 prosecution witnesses remain to be examined, trial shall take considerable time to conclude.

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 8, 2023
rps

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