

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

CRM-M No.22565 of 2023
Date of decision: 10th May, 2023

Sahib

... Petitioner

Versus

State of Haryana

... Respondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present: Mr. Sanjeev Majra, Advocates for the petitioner.
Mr. Chetan Sharma, Dy. Advocate General, Haryana
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.115 dated 23.02.2022 under Sections 323, 506, 34 IPC (Sections 307, 302 IPC added later on) registered at Police Station Kundli, District Sonipat (Haryana).

Learned counsel for the petitioner, while drawing the attention of this Court to the allegations levelled in the FIR, contends that a perusal of the same clearly reveals that no injury, much less fatal, has been attributed to the petitioner and the only allegation levelled against him is of having caught hold of the deceased Manglu when the injuries, including the fatal injury, were inflicted upon the deceased. Learned counsel submits that the false implication of the petitioner in the case in hand finds credence from the fact that while stepping into

the witness box, the complainant who was alleged to be an eye-witness to the crime in question, did not support the case of the prosecution, and as a result of which he was declared hostile. It has also been submitted that wife of the deceased, while stepping into the witness box had also failed to support the case of the prosecution. In support, learned counsel has drawn the attention of this Court to the deposition of the complainant who deposed as PW-3 (Annexure P-2) and Hassina, wife of the deceased, who deposed as PW-6 (Annexure P-3). Learned counsel submits that since the petitioner has now been in custody for more than a year, having been arrested on 24.02.2022 and all the material witnesses including the complainant (eye-witness) stand examined and as already submitted, have not supported the case of the prosecution, his further incarceration would serve no useful purpose.

Per contra, learned State counsel while opposing the prayer and submissions made by the counsel opposite, on instructions from SI Ravinder, has not been able to dispute the factual aspect of the role attributed to the petitioner in the crime in question and also qua both the material witnesses having turned hostile during trial. Learned State counsel, on further instructions, has apprised the Court that 15 prosecution witnesses remain to be examined and the next date of hearing fixed before the trial Court is 26.09.2023.

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

The petitioner has been in custody since 24.02.2022 and there is no likelihood of the trial concluding in the near future as 15 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

May 10, 2023
rps

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