

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M No.22325 of 2023
Date of decision: 9th May, 2023

Ajay

... Petitioner

Versus

State of Haryana

... Respondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present: Mr. Bhanu Udai, Advocate 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.461 dated 12.09.2022 under Sections 34, 379B, 392, 394 IPC (Sections 365, 397 IPC added later on) and Section 25 of the Arms Act registered at Police Station Civil Lines Sonipat, District Sonipat (Haryana).

Learned counsel for the petitioner inter alia submits that a false case has been planted upon him on the allegations that he along with two others, after hiring taxi of the complainant, had kidnapped him on gunpoint and forcibly taken the taxi to Sonipat from Noida. He submits that when the complainant stepped into the witness box as PW-1, he could not identify the petitioner and as a result of which he was declared hostile. Learned counsel further submits that the petitioner has

no criminal antecedents and since the complainant, who is the sole material witness in the case in hand, stands examined, his further incarceration would serve no useful purpose.

In support, learned counsel has drawn the attention of this Court to the deposition of the complainant (Annexure P-2).

Per contra, learned State counsel while opposing the prayer and submissions made by the counsel opposite, on instructions, has not been able to controvert that the complainant had failed to support the case of the prosecution during trial and as a result of which he was declared hostile. Still further, he could not dispute that the petitioner has no criminal antecedents. It has been submitted that the petitioner was nabbed at the spot in Sonipat by one Home Guard Jaideep when the complainant raised hue and cry, and the said Home Guard while deposing as PW-1 had identified the petitioner during trial. Learned State counsel has also submitted that no doubt co-accused Sagar had been extended the concession of bail, however, the petitioner could not seek parity with him as he was not apprehended at the spot unlike the petitioner who was nabbed while trying to flee.

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

The petitioner has now been in custody since 12.09.2022 and there is no likelihood of the trial concluding in the near future as only 5 witnesses out of the 11 cited have been examined so far. In

addition to this, the sole material witness i.e. the complainant already stands 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.

Needless to add here, in case the petitioner misuses the concession of bail, the State would be at liberty to approach this Court for cancellation of bail in the instant case.

(MANJARI NEHRU KAUL)
JUDGE

May 9, 2023
rps

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