

218 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-23964-2022
Decided on : 22.11.2023

Kuldeep Singh @ Sonu

..... Petitioner

Versus

State of Punjab

..... Respondent

CORAM : HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present : Mrs. G.K.Mann, Sr. Advocate with
Mr. Gursharan Singh, Advocate
for the petitioner.

Ms. Kanica Sachdeva, AAG, Punjab.

Mr. Kulbir Singh Sekhon, Advocate
for the complainant.

Manjari Nehru Kaul, J.(Oral)

1. Instant petition has been filed by the petitioner seeking concession of regular bail in case FIR No.53 dated 18.06.2021 under Sections 302, 307, 323, 336, 506, 148 and 149 IPC and Sections 25, 27, 54 and 59 of Arms Act, 1959 registered at Police Station Sarai Amanat Khan District Tarn Taran.

2. Learned Senior counsel for the petitioner while drawing the attention of this Court to the FIR in question *inter alia* contends as follows:

- (i) that a highly twisted version has been brought-forth by the complainant that it was the petitioner, who had initiated the occurrence in question by coming to their fields and

ploughing the land.

- (ii) that in fact the occurrence in question had not taken place in the fields of the complainant party as had been alleged in the FIR but in the fields, which had been purchased by the petitioner from the brother of the complainant.
- (iii) that it was the complainant party, who had been nursing a grudge ever since the purchase of the lands from the brother of the complainant, who then trespassed into his lands and thereafter indiscriminately fired at the petitioner as a result of which the petitioner was left with no other option but to fire back both in his self defence as well as in the defence of his property.
- (iv) that soon after the occurrence in question, a DDR had also been lodged by the petitioner and furthermore, it was a matter of record that the petitioner too had suffered fire arm injuries in the occurrence in question.

3. Learned Senior counsel has submitted that since the petitioner has now been in custody for almost 2½ years having been arrested on 23.06.2021 and all the five material witnesses i.e. the complainant as well as stamped witnesses stand examined during trial, his further incarceration would serve no useful purpose moreso, since 39 prosecution witnesses still remain to be examined. Learned Senior counsel has also asserted that the

petitioner has clean antecedents as he is not involved in any other criminal case much less case of similar nature.

4. Per contra, learned State counsel on instructions, assisted by learned counsel for the complainant has vehemently opposed the prayer and submissions made by the counsel opposite and has submitted that the occurrence had taken place in the fields adjoining that of the petitioner and it was in fact the petitioner, who had initiated the occurrence and without any provocation fired at the complainant party. However, learned counsel for the State on instructions has not disputed that as per the MLR of the petitioner, he too had sustained fire arm injuries in the occurrence in question for which he was medico-legally examined two days later. It has also not been disputed that a DDR dated 23.06.2021 qua the same occurrence had also been recorded at the instance of the petitioner.

5. Heard learned counsel for the parties and perused the relevant material on record.

6. The petitioner has been in custody since 23.06.2021. All the material witnesses including the stamped witness stand examined. Hence, there can be no possibility of the petitioner tampering with evidence or trying to influence the material witnesses to depose in his favour. The trial is unlikely to conclude in the near future as 39 prosecution witnesses still remain to be examined.

7. In the facts and circumstances as enumerated hereinabove, further incarceration of the petitioner would serve no useful purpose.

Therefore, this Court deems it fit to extend the concession of bail to the petitioner. Accordingly, the instant petition is allowed. The petitioner is admitted to bail to the satisfaction to the trial Court/Duty Magistrate concerned.

8. 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.

22.11.2023
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(MANJARI NEHRU KAUL)
JUDGE

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