

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

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2023:PHHC:095936

CRM-M-24246-2023 (O&M)
Date of decision: July 27th, 2023

Gurwinder Singh alias Laddi

.....Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present : Mr. A.S. Brar, Advocate
for the petitioner.

Mr. Harsimran Singh Sitta, Deputy Advocate General,
Punjab.

MANJARI NEHRU KAUL, J. (ORAL)

The petitioner is seeking the concession of bail under Section 439 of the Code of Criminal Procedure, 1973 in case FIR No.141 dated 23.07.2021 under Sections 302, 148, 149 of the Indian Penal Code, 1860 and Sections 25 and 27 of the Arms Act, 1859 registered at Police Station Dharamkot, District Moga.

2. Learned counsel for the petitioner submits that it was a case of eyewitness account. The petitioner was not named at the time of the lodging of the FIR and was nominated as an accused much later on the basis of a supplementary statement recorded by Gurwinder Singh-complainant (brother of the deceased). It has further been submitted that both the material witnesses while stepping into the witness box had failed to support the case of the prosecution qua the other accused, who had been earlier challaned as a result of which they were declared hostile. It has also been submitted that even otherwise, in the

supplementary statement recorded of the complainant, the petitioner had not been attributed any injury much less fatal on the person of the deceased and only his presence had been shown at the time of the alleged occurrence. Learned counsel has thus prayed for extending the concession of bail to the petitioner as he has now been in custody since 08.12.2022 and after the challan was presented on 24.02.2023, charges have not yet been framed. Learned counsel submits that there is thus no likelihood of the trial concluding in the near future. More so since 18 prosecution witnesses had been cited.

3. *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 petitioner had not been named by the complainant when the FIR in question was lodged but had been nominated as an accused in the supplementary statement recorded by him after about 1½ months of the alleged occurrence. He has also not been able to dispute that no injury much less fatal had been attributed to the petitioner but only his presence at the place of occurrence had been shown along with one co-accused, who had since been extended bail by this Court vide order dated 22.03.2023 (Annexure P-4). Learned State counsel, however, has submitted that the petitioner had absconded after the registration of the FIR as a result of which he was declared a proclaimed offender.

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

5. As not disputed by learned State counsel, the petitioner had not been named by the alleged eyewitness/complainant when the FIR

was lodged nor had he been attributed any role in the crime in question. It is a matter of record that similarly situated co-accused i.e. Gulshan Singh @ Dharminder Singh, who too had not been initially named in the FIR and came to be nominated as an accused in the supplementary statement of the complainant, too had been declared a proclaimed offender but had since been extended the concession of bail vide order dated 22.03.2023 (Annexure P-4) by a coordinate Bench of this Court. As per instructions received by the State counsel, the petitioner is not involved in any other case and the trial is unlikely to conclude in the near future.

6. In the facts and circumstances as enumerated hereinabove, the instant petition is allowed. The petitioner be admitted to bail to the satisfaction of the Trial Court/Duty Magistrate concerned. 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.

July 27th, 2023
Puneet

(MANJARI NEHRU KAUL)
JUDGE

Whether speaking/reasoned : Yes
Whether reportable : No