

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

CRM-M No.29199 of 2023
Date of decision: 1st August, 2023

Ajay @ Bholu

... Petitioner

Versus

State of Haryana

... Respondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present: Mr. Ajay Kripal Singh, Advocate for the petitioner.
Mr. Rahul Mohan, Sr. Dy. Advocate General, Haryana
for the respondent/State.

MANJARI NEHRU KAUL, J. (ORAL)

1. The petitioner is seeking the concession of bail under Section 439 Cr.P.C. in case FIR No.138 dated 02.07.2021 under Sections 120-B, 302 IPC (Sections 34, 201 IPC and Section 25(1A), 27(3), 29 of the Arms Act, 1959 added later on) registered at Police Station Jui Kalan, District Bhiwani.

2. Learned counsel for the petitioner inter alia contends that it is a case resting on circumstantial evidence. The motive to commit the crime was stated to be an alleged relationship between the wife of one Krishan, with the son of the deceased, for which an FIR under Section 376 IPC was also registered and on account of which the son of the deceased was in judicial custody. Learned counsel submits that while lodging the FIR, the complainant stated that he could identify the 2

boys who had come to him just prior to the occurrence in question, asking about the whereabouts of the deceased. However, while stepping into the witness box as PW-2, the complainant did not identify the petitioner as being one of the persons who had come to him on the scooter to enquire about the whereabouts about the deceased, as a result thereof PW-2, complainant, was declared hostile. In support, learned counsel has drawn the attention of this Court to the deposition of the complainant which has been annexed as Annexure P-2. Learned counsel, thus, submits that further incarceration of the petitioner, who is in custody for close to 2 years, having been arrested on 07.08.2021, would serve no useful purpose, in the aforementioned circumstances.

3. Per contra, learned State counsel while opposing the prayer and submissions made by the counsel opposite, on instructions from SI Satish has submitted that on the fateful day i.e. 01.07.2021 at 7:00 p.m. two unknown assailants had approached the complainant to ask about the whereabouts of his brother i.e. the deceased. Soon thereafter, the complainant was informed that his brother had been stabbed to death. Learned State counsel, while drawing the attention of this Court to the FIR in question, has further submitted that it had been categorically alleged in the FIR by the complainant that he suspected that the murder had been committed at the behest of one Krishan, whose wife had allegedly been taken away by Jagat, son of the deceased, and for which said Jagat was facing trial under Section 376 IPC. Learned State counsel has further submitted that no doubt the complainant failed to

identify the accused including the petitioner during trial as being one of those persons who had approached him on 01.07.2021 to find out the whereabouts of his brother, however, the petitioner was a close relative of Krishan and thus they all were nursing a grudge against the deceased. On further instructions, learned State counsel has not disputed that all 4 material witnesses including the complainant stand examined and 26 more prosecution witnesses remain to be examined.

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

5. The petitioner has now been in custody since 07.08.2021. The trial is unlikely to conclude in the near future as 26 prosecution witnesses still remain to be examined. In addition to this, all the material witnesses already stand 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

August 1, 2023
rps

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