

IN THE HIGH COURT OF PUNJAB & HARYANA, CHANDIGARH

CRM-M No. 28334 of 2023

Date of decision : October 06, 2023

Gulab Singh

..... Petitioner

Versus

State of Punjab

..... Respondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present:- Mr. Sandeep Arora, Advocate
for the petitioner.

Mr. Amit Rana, Senior DAG., Punjab.

Manjari Nehru Kaul, J (oral).

1. The petitioner is seeking the concession of bail under Section 439 of the Cr.P.C. in case FIR No. 18 dated 10.02.2020 under Sections 302 and 120-B read with Section 34 of the IPC and Section 25 of the Arms Act, 1959 registered at Police Station Beas, District Amritsar Rural.

2. Learned counsel for the petitioner submits that the FIR was lodged by the father of the deceased against unknown persons. In the FIR it had been alleged that on the night of 09.02.2020, when the deceased was parking his car on return from some marriage, two unidentified persons came to the spot in a car and fired indiscriminately upon him, as a result of which he succumbed to the injuries at the spot. He submits that subsequently two persons namely Hardeep Singh @ Deepa as well as Akashdeep Singh were nominated as an accused in the case in hand on the basis of an extra judicial confession made by them. On being arrested, accused Hardeep Singh suffered a disclosure statement wherein he stated that the deceased had been murdered at the behest

of the co-accused Sukhjinder Singh @ Bittu who had also provided him with the weapon of offence. After accused Sukhjinder Singh @ Bittu was arrested, he suffered a disclosure statement wherein for the first time the name of the petitioner surfaced and it was stated that the weapon of offence belonged to the petitioner.

3. Learned counsel for the petitioner further submits that totally false allegations have been levelled against the petitioner of having supplied the weapon of offence to the co-accused as he had no motive whatsoever to eliminate the deceased and still further there was no material on record which was collected by the investigating agency to link the petitioner with the weapon of offence used in the crime in question. He further submits that the co-accused Sukhjinder Singh @ Bittu at whose behest the crime in question had allegedly been committed and who had provided the weapon of offence to accused Hardeep Singh and Akashdeep Singh had since been extended the concession of bail by a co-ordinate Bench of this Court vide order dated 11.05.2023 in **CRM-M-42072-2022**.

4. Learned counsel for the petitioner has submitted that six prosecution witnesses including the complainant already stand examined out of the 41 cited and hence, further incarceration of the petitioner would serve no useful purpose as he has been in custody for almost three years having been arrested on 28.12.2020.

5. Per contra, learned State counsel while opposing the prayer and submissions made by learned counsel for the petitioner, on instructions from ASI Pragat Singh, has not disputed that the petitioner was not one of the two assailants who fired at the deceased and still further as per allegations in the FIR, the crime in question had not been carried out at his behest. However, he

accused Sukhjinder Singh @ Bittu had been provided to the co-accused Hardeep Singh and Akashdeep Singh by none other than the petitioner. Learned State counsel on further instructions from ASI Pragat Singh has also not disputed that the sole material witness i.e. the eye witness already stands examined and as many as 35 prosecution witness still remain to be examined.

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

7. The petitioner has been in custody since 28.12.2020. Challan stands presented. As many as 35 prosecution witnesses still remain to be examined, hence, trial would take considerable time to conclude. In the facts and circumstances as enumerated hereinabove and the nature of allegations levelled against the petitioner, this Court deems it fit to extend the concession of bail to the petitioner as further incarceration of the petitioner would serve no useful purpose.

8. Accordingly, 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.

9. Needless to add, in case the petitioner misuses the concession of bail granted to him, the State would be at liberty to seek cancellation of the same.

(MANJARI NEHRU KAUL)
JUDGE

October 06, 2023
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Whether speaking/reasoned	Yes
Whether Reportable	No