

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

221

CRM-M-28295-2023

Date of decision: 04.07.2023

Mayank yadav

.....Petitioner

Versus

State of Haryana

.....Respondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present : Mr. Prateek Rathee, Advocate
for the petitioner.

Mr. Rahul Mohan, Sr. DAG, Haryana.

MANJARI NEHRU KAUL, J. (ORAL)

1. The petitioner is seeking the concession of bail under Section 439 of the Code of Criminal Procedure, 1973 in case FIR No.238 dated 26.10.2019 under Sections 302 and 120-B of the Indian Penal Code, 1860 and Section 25 of the Arms Act, 1959 registered at Police Station Line Paar Bahadurgarh, District Jhajjar.

2. While drawing the attention of this Court to the allegations levelled in the FIR which has been annexed as Annexure P-1, learned counsel for the petitioner submits that the petitioner was not named therein nor was any suspicion raised by the complainant qua the involvement of the petitioner in the murder of his cousin i.e. Sunny Dabla. Learned counsel further submits that the petitioner's false implication in the case in hand finds further credence from the fact that both the material witnesses i.e. PW-1 Balwan as well as complainant Vicky @ Mogli who stepped into the witness box as PW-2, did not support the case of the prosecution qua the petitioner, as a result of

which they both were declared hostile. Learned counsel has still further submitted that the petitioner has been in custody since 02.11.2019 and as many as 21 prosecution witnesses remain to be examined, hence, no useful purpose would be served in keeping the petitioner behind bars moreso when both the material witnesses as already submitted earlier have failed to support the case of the prosecution.

3. Per contra, learned State counsel while opposing the prayer and submissions made by the counsel opposite on instructions from SI Vijay Pal, has not been able to controvert that the petitioner was neither named in the FIR in question nor any suspicion was raised qua his involvement in the murder of Sunny Dabla and still further learned State counsel has also not disputed that both the material witnesses had turned hostile during trial.

4. On a pointed query put to the learned State counsel, he on instructions has apprised the Court that the petitioner is involved in 02 other criminal cases including one for an offence under Section 302 of the IPC, however, he is in custody in both the cases.

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

6. The petitioner has been in custody since 02.11.2019. Only 02 out of the 23 prosecution witnesses stand examined, hence, the trial shall take considerable time to conclude. In the facts and circumstances as enumerated hereinabove, this Court deems it fit to extend the concession of bail to the petitioner.

7. 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.

8. 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.

04.07.2023

(MANJARI NEHRU KAUL)
JUDGE

Vinay

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