

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

**CRM-M No.29078 of 2023**  
Date of decision: 15<sup>th</sup> September, 2023

Barjesh Kumar Dwedi

... Petitioner

Versus

State of Punjab

... Respondent

**CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL**

Present: Mr. Varinder S. Mand, Advocate for the petitioner.

Mr. Jaspal S. Guru, Assistant Advocate General, Punjab  
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.08 dated 11.02.2019 under Section 302 IPC registered at Police Station Daresi, District Ludhiana.

2. Learned counsel for the petitioner has reiterated the submissions made on the last date of hearing that the two material witnesses i.e. Uday Raj as well as Ram Milan (who were witnesses of last seen), while stepping into the witness box had not supported the case of the prosecution, as a result of which they had been declared hostile. Learned State counsel, on the last date of hearing had not disputed the submissions made by the counsel opposite qua both these material witnesses having turned hostile. The case had then been adjourned for today, as another witness of last seen was yet to be examined.

3. Learned counsel for the petitioner has submitted that the third witness of last seen i.e. Jagsir Singh had since been examined and had also not supported the case of the prosecution. He submits that in the circumstances, since the case in hand rests on circumstantial evidence, false implication of the petitioner in the case in hand was evident as even there was no motive spelt out against the petitioner to have committed the murder of Satpal Singh. Learned counsel submits that the petitioner has now been in custody for more than four years, having been arrested on 11.02.2019 and trial will take considerable time to conclude as 7 prosecution witnesses still remain to be examined. Learned counsel also submits that since all the material witnesses have been examined, further incarceration of the petitioner, who has clean antecedents, would serve no useful purpose.

4. Per contra, learned State counsel while opposing the prayer and submissions made by the counsel opposite, on instructions from Inspector Balwinder Singh, has not been able to controvert that all the three material witnesses, while stepping into the witness box had not supported the case of the prosecution, as a result of which they had been declared hostile. However, he submits that the complainant in the case in hand i.e. Sandeep Singh, while stepping into the witness box had supported the case of the prosecution. Learned State counsel further submits that the next date of hearing fixed before the trial Court is 18.09.2023 when some more prosecution witnesses are likely to be examined.

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

6. The case in hand rests on circumstantial evidence. The FIR was lodged at the instance of Sandeep Singh (nephew of the deceased). A perusal of the FIR reveals that Sandeep Singh was not a witness to the occurrence in question and while lodging the FIR, he had categorically stated that he had learnt on the day following the murder of Satpal Singh that the petitioner after attacking the deceased had fled away from his room. In the circumstances, even if the complainant has supported the case of the prosecution, he cannot be termed as a material witness. The petitioner has now been in custody since 11.02.2019 and trial will take considerable time to conclude as 7 prosecution witnesses still remain to be 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

September 15, 2023  
*rps*

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|---------------------------|--------|
| Whether speaking/reasoned | Yes/No |
| Whether reportable        | Yes/No |