

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

223

CRM-M-34687-2022

Date of decision: 05.07.2023

Jaswant Singh

.....Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present : Ms. Satinder Kaur, Advocate and
Mr. Gurpreet Singh, Advocate
for the petitioner.

Mr. Subhash Godara, Addl. A.G., Punjab.

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.141 dated 23.07.2021 under Sections 302, 148 and 149 of the Indian Penal Code, 1860 and Sections 25 and 27 of the Arms Act, 1959 registered at Police Station Dharamkot, District Moga.

2. Learned counsel for the petitioner submits that the false implication of the petitioner in the case in hand finds credence from the fact that during trial both the material witnesses i.e. complainant Gurwinder Singh (brother of the deceased) as well as Gurmej Singh (father of the deceased) did not support the case of the prosecution as a result of which they were declared hostile. In support, learned counsel has drawn the attention of this Court to Annexures P-4 and P-5 which are copies of the deposition of both these witnesses. Learned counsel submits that since it was a case of eye witness account and both these

witnesses who witnessed the alleged occurrence, had not supported the case of the prosecution, further incarceration of the petitioner, in the circumstances, would serve no useful purpose, who has now been in custody since 01.09.2021 and as many as 15 prosecution witnesses out of the 18 cited, still remain to be examined.

3. Per contra, learned State counsel while opposing the prayer made by the counsel opposite on instructions from ASI Gurpreet Singh, has not been able to dispute that both the eye witnesses including the complainant while stepping into the witness box had been declared hostile. Learned State counsel, however, submits that as per the allegations levelled in the FIR the petitioner along with some other accused arrived at the place of occurrence and after raising *lalkara* the petitioner fired at the deceased with his fire arm which proved to be fatal. It has been further submitted that the next date fixed before the Trial Court is today when a few more prosecution witnesses have been summoned to depose.

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

5. The petitioner has now been in custody since 01.09.2021. There is no likelihood of the trial concluding in the near future. As also not disputed by the learned State counsel both the material witnesses stand examined and did not support the case of the prosecution, hence, no useful purpose would be served by keeping the petitioner behind bars. In the facts and circumstances as enumerated hereinabove, this Court deems it fit to extend the concession of bail to the petitioner.

6. Accordingly, the instant petition is allowed. The petitioner

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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.

05.07.2023
Vinay

(MANJARI NEHRU KAUL)
JUDGE

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