

IN THE HIGH COURT OF PUNJAB & HARYANA  
AT CHANDIGARH

225

CRM-M-35539-2023

Date of decision: 11.10.2023

Prince @ Billa

.....Petitioner

Versus

State of Punjab

.....Respondent

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

Present : Mr. Manjinder Singh Saini, Advocate  
for the petitioner.

Mr. Mohit Kapoor, Addl. A.G., Punjab.

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**MANJARI NEHRU KAUL, J. (ORAL)**

1. The petitioner in the instant (firth) petition is seeking the concession of bail under Section 439 of the Cr.P.C. in case FIR No.148 dated 14.11.2020 under Sections 307, 34, 120-B of the IPC registered and Sections 25, 27 of the Arms Act, 1959 (Section 25 of the Arms Act deleted lateron) at Police Station Division No.2, District Jalandhar Commissionerate.

2. Learned counsel for the petitioner submits that despite the complainant PW-2 Rani and her husband PW-4, who was alleged to be a witness to the occurrence in question, being summoned time and again including throughailable warrants, they had intentionally not been putting in appearance before the trial Court, as a result of which trial was getting unnecessarily delayed. Learned counsel submits that even otherwise, a perusal of the allegations levelled in the FIR in question reveals that it is a case of no injury and the only allegation

levelled against the petitioner is that he fired from a pistol in the dead of the night towards the complainant and her husband, while they were standing on the terrace of their house. Learned counsel further submits that it was a matter of record that the petitioner was one of the eye-witnesses in a case registered under Section 302 IPC against the two sons of the complainant, for which they were facing trial and thus, it was precisely for the said reason, a fabricated version had been brought forth against the petitioner by the complainant. It has been submitted that this too was one of the reasons that the complainant and her husband were intentionally avoiding deposing before the trial Court. In support, learned counsel has placed reliance upon the zimni order dated 01.09.2023 wherein it stands reflected that the trial Court had issued bailable warrants to procure the presence of both, the complainant as well as her husband. Learned counsel has lastly submitted that the petitioner has now been in custody for two years and five months, having been arrested on 24.11.2020 and looking to the conduct of the complainant and her husband, there is no likelihood of the trial concluding in the near future as six prosecution witnesses still remain to be examined. Learned counsel appearing for the petitioner has submitted that both the material witnesses i.e. the complainant as well as her husband have failed to yet again appear before the Trial Court despite service of bailable warrants upon them to secure their presence. He submits that in the circumstances, the petitioner cannot be made to languish in custody for reasons attributable to the complainant and complainant alone.

3. Status report by way of affidavit of Nirmal Singh, PPS,

Assistant Commissioner of Police, Central, Jalandhar, has been filed in the Court today which is taken on record subject to all just exceptions.

A copy of the same has been supplied to the counsel opposite.

4. Per contra, learned State counsel while opposing the prayer made by learned counsel for the petitioner, on instructions, has not disputed the submissions made by the counsel opposite qua the complainant and her husband having yet again failed to appear before the Trial Court despite issuance of bailable warrants to secure their presence. However, while drawing the attention of this Court to the status report filed today, submits that it is evident that the petitioner is a man of criminal antecedents as he is involved in multiple criminal cases.

4. I have heard learned counsel for the parties and perused the material placed on record including the status report filed today.

5. No doubt, the petitioner is involved in a number of criminal cases, however, it stands revealed that in most of the cases he has either been convicted or has been released on bail, and in some cases which are pending against him, he is behind bars. Furthermore, advertent to the allegations levelled in the instant case, it is not disputed by the learned State counsel that it is a case of no injury and a criminal case is pending against the sons of the complainant under Section 302 of the IPC, in which the petitioner is an alleged eye witness. In the facts and circumstances, as enumerated hereinabove coupled with the fact that the material witnesses i.e. the complainant and her husband have not been appearing during trial, this Court deems it fit to extend the concession of bail to the petitioner as 07 prosecution

witnesses still remain to be examined.

6. 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.

7. 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.

11.10.2023

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(MANJARI NEHRU KAUL)  
JUDGE

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