

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

215

CRM-M-40989-2021

Date of decision: 24.07.2023

Manjeet Singh @ Bittu

.....Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present : Mr. R.S. Sekhon, 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.34 dated 05.02.2021 under Sections 302, 307, 324, 323, 148 and 149 of the IPC and Section 27 of the Arms Act, 1959 registered at Police Station City Jalalabad, District Fazilka.

2. Status report by way of affidavit of Atul Soni, PPS, Deputy Superintendent of Police, Sub Division, Jalalabad, has been filed in the Court today which is taken on record subject to all just exceptions. A copy of the same has been handed over to the counsel opposite.

3. Learned counsel for the petitioner while drawing the attention of this Court to the FIR in question which has been annexed as Annexure P-1, inter alia submits that it was registered against unknown persons, at the instance of the mother of the deceased, who was stated to be an eye witness to the occurrence in question. Still further, in the FIR, no description of the alleged assailants had been given by the complainant and it had only been alleged that 05 persons

came to the spot at about 08:00 PM on the fateful day and launched an unprovoked attack on her son i.e. the deceased with their weapons including fire arms and thereafter fled from the spot when a hue and cry was raised by the complainant. After the occurrence in question, the deceased was removed to the hospital where he died on 11.02.2021. Thereafter in her supplementary statement, the complainant nominated the petitioner and others as accused. Learned counsel submits that neither was any test identification parade carried out nor was there any other material on record from which the petitioner could have been linked to the murder of the deceased. He submits that on the face of it the evidence collected against the petitioner was most uninspiring and unconvincing. It has been further submitted that the petitioner has now been in custody since 20.02.2021 and only 03 out of the 20 prosecution witnesses including the complainant stand examined. He submits that in the circumstances, further incarceration of the petitioner would serve no useful purpose.

4. Per contra, learned State counsel while opposing the prayer and submissions made by the counsel opposite on instructions, has not been able to dispute that the FIR in question was registered against unknown persons and still further no test identification parade was carried out. He, however, submits that the petitioner came to be nominated as an accused on the basis of a supplementary statement made by the complainant. He further submits that on being arrested a disclosure statement was made by the petitioner under Section 27 of the Evidence Act pursuant to which a kappa was recovered which had been used in the crime in question.

5. On a pointed query put to the learned State counsel as to whether the petitioner is involved in any other criminal case, he on instructions, has replied in the negative.

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

7. As not disputed by the learned State counsel, the FIR in question, was registered against unknown persons, and it was only subsequently in a supplementary statement made by the complainant, the petitioner and the other co-accused came to be nominated as accused in the FIR in question. Since 17 prosecution witnesses still remain to be examined and the material witness i.e. the complainant already stands examined, further incarceration of the petitioner would serve no useful purpose who has been in custody since 20.02.2021. In view of the facts and circumstances as enumerated hereinabove, this Court deems it appropriate to extend the concession of bail to the petitioner.

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.

24.07.2023

(MANJARI NEHRU KAUL)
JUDGE

Vinay

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