

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

226

CRM-M-37023-2023

Date of decision: 04.08.2023

Major Singh

.....Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present : Mr. Arshdeep Singh Brar, Advocate
for the petitioner.

Mr. H.S. Sullar, Sr. DAG, 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 it was a case of eye witness account. While drawing the attention of this Court to the FIR which has been annexed as Annexure P-1, learned counsel submits that a perusal of the same reveals that the petitioner was not named therein nor was he attributed any role. He submits that it was much later the petitioner was nominated as an accused on the supplementary statement made by Gurwinder Singh (complainant and brother of the deceased). Learned counsel submits that the petitioner being falsely implicated in the case in hand finds due credence from the fact that while stepping into the witness box both the material witnesses

i.e. the complainant (eye witness) as well as another eye witness Gurmej Singh, father of the deceased, did not support the case of the prosecution as a result of which they were declared hostile. Learned counsel submits that even otherwise a perusal of the supplementary statement reveals that even therein no specific role has been attributed to the petitioner much less any fatal injury on the person of the deceased, other than his presence having been shown along with the co-accused. Learned counsel thus prays that in the aforementioned facts and circumstances, since the material witnesses stand examined and as many as 15 prosecution witnesses still remain to be examined, further incarceration of the petitioner would serve no useful purpose.

3. Per contra, learned State counsel while opposing the prayer made by the counsel opposite, has not been able to controvert the factual aspect of the submissions made by the counsel opposite qua no role much less any injury being attributed to the petitioner in the crime in question and still further both the material witnesses i.e. the complainant as well as father of the deceased who too was a witness to the murder of his son, having turned hostile during trial.

4. On a pointed query, put to the learned State counsel as to whether the petitioner is involved in any other criminal case, he submits that as per report received from the Pairvi Officer, the petitioner is not involved in any other case.

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

6. The case is based on eye witness account, however, as not disputed by the learned State counsel, the material witnesses have failed

to support the case of the prosecution as a result of which they were declared hostile. Next date before the Trial Court is 21.08.2023 when some more witnesses have been summoned to depose. There is no likelihood of the trial concluding in the near future. 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.

04.08.2023

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(MANJARI NEHRU KAUL)
JUDGE

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