

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

223

2023:PHHC:100762

CRM-M-36889-2023

Date of decision: August 4th, 2023

Lokesh @ Kali

.....Petitioner

Versus

State of Haryana

.....Respondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present : Mr. Sandeep Singh Jattan, Advocate
for the petitioner.

Mr. Gagandeep Singh Chhina, Assistant Advocate General,
Haryana.

MANJARI NEHRU KAUL, J. (ORAL)

The petitioner is seeking the concession of bail under Section 439 of the Code of Criminal Procedure, 1973 in case FIR No.393 dated 10.07.2022 under Sections 34, 379-B of the Indian Penal Code and Section 25 of the Arms Act (Sections 392, 397 IPC and Section 27 of Arms Act added later on) registered at Police Station Gohana Sadar, District Sonipat.

2. Learned counsel for the petitioner, *inter alia*, contends that a totally false and fabricated case has been planted upon the petitioner which is evident from the fact that the FIR in question was registered on 10.07.2022 against unknown persons, wherein it had only been alleged that on the fateful day at about 8:45 PM, when the complainant was counting cash at the liquor vend, two boys with muffled faces came on a motorcycle with a country-made pistol and after threatening him at gunpoint decamped with ₹8,000/- on their motorcycle. In support, learned counsel has drawn the attention of this Court to the contents of the FIR, which have been reproduced in the body of the petition.

Learned counsel submits that strangely after almost seven months of the occurrence in question i.e. on 04.02.2023, a supplementary statement was made by none other than the complainant, wherein he stated that both the accused including the petitioner were involved in the occurrence dated 10.07.2022 and they had come to the complainant to compromise the matter. Learned counsel submits that on the face of it, it comes across as a totally bogus story which has been coined because a perusal of the FIR reveals that no description of the alleged assailants was given and there was no suspicion much less by way of whisper raised qua the involvement of the petitioner, hence, there could not have been any occasion for the petitioner to go to the complainant for effecting a compromise. It has been further submitted that the petitioner has clean antecedents as he is not involved in any other criminal case much less a case of similar nature. Learned counsel submits that the petitioner has now been in custody since 05.02.2023 and only final report under Section 173 (2) Cr.P.C. stands presented. Hence, there is no likelihood of the trial concluding in the near future, more so since 17 prosecution witnesses have been cited.

3. *Per contra*, learned State counsel, on instructions from S.I. Naveen, while opposing the prayer and submissions made by learned counsel for the petitioner, has not been able to dispute that the FIR in question was lodged against unknown persons and it was completely silent qua the description of the alleged assailants. However, he submits that in the supplementary statement which was recorded by the complainant, he had specifically named the petitioner and it was thereafter that the petitioner was arrested by the police.

Learned State counsel has further submitted that charges stand framed and the next date before the trial Court is 10.10.2023 when the prosecution evidence is likely to commence.

4. 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.

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

6. In the facts and circumstances as enumerated hereinabove, 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 say, in case the petitioner misuses the concession of bail granted to him, the State would be at liberty to seek cancellation of the bail granted to him.

August 4th, 2023
Puneet

(MANJARI NEHRU KAUL)
JUDGE

Whether speaking/reasoned : Yes
Whether reportable : No