

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M No.37757 of 2023
Date of decision: 9th August, 2023

Roshan Singh

... Petitioner

Versus

State of Punjab

... Respondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present: Mr. Jashandeep S. Sandhu, Advocate for the petitioner.
Mr. Amit Rana, Sr. Deputy Advocate General, Punjab
for the respondent/State.

MANJARI NEHRU KAUL, J. (ORAL)

1. The petitioner is seeking the concession of bail under Section 439 Cr.P.C. in case FIR No.110 dated 08.06.2019 under Sections 304, 394 IPC and Section 25/27 of the Arms Act, 1959 registered at Police Station Haibowal, District Ludhiana. This is second petition filed by the petitioner.

2. Learned counsel, while drawing the attention of this Court to the allegations levelled in the FIR, which has been annexed as Annexure P-1, submits that as per the allegations levelled therein, the complainant had simply stated that he had come to know that the petitioner along with one Jaspal Singh had fired at and caused injuries to his brother (since deceased), as a result of which he died. Learned counsel for the petitioner further submits that after withdrawal of the

previous petition on 10.05.2023, wherein similar relief had been sought, the sole material witness i.e. the complainant, while stepping into the witness box had not supported the case of the prosecution, as a result of which he was declared hostile. A prayer has therefore, been made for extending the concession of bail to the petitioner, as his further incarceration would serve no useful purpose.

3. 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 complainant, who was the sole material witness, had not supported the case of the prosecution during trial, as a result of which he had been declared hostile. Learned State counsel has further submitted that 13 prosecution witnesses still remain to be examined and the next date of hearing fixed before the trial Court is 11.09.2023. Learned State counsel has, however, brought to the notice of this Court that the petitioner is involved in five other criminal cases, which fact finds reflected in the custody certificate which has been placed on record today.

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

5. The petitioner has been in custody for more than four years, having been arrested on 03.08.2019 and only 2 prosecution witnesses out of the 15 cited, have been examined so far. Learned State counsel has however, not been able to dispute that there is no other material witness, much less any eye-witness to the occurrence in question, other

than the complainant, who already stands examined. No doubt, there are some other criminal cases registered against the petitioner, however, the custody certificate reveals that in two of those cases, he has not been released on bail while the other cases were registered while he was in custody in the instant case. In the facts and circumstances, as enumerated hereinabove, this Court thus deems it fit to extend the concession of bail to the petitioner in the instant case. The petition as such is allowed and the petitioner is admitted to bail to the satisfaction of the trial Court/Duty Magistrate, in case not in custody/required in any other case. 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.

6. Needless to add here, in case the petitioner misuses the concession of bail, the State would be at liberty to approach this Court for cancellation of bail in the instant case.

(MANJARI NEHRU KAUL)
JUDGE

August 9, 2023
rps

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