

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

215

CRM-M-39732-2022

Date of decision: 01.08.2023

Kapil @ Kapila

.....Petitioner

Versus

State of Haryana

.....Respondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present : Mr. Bhupinder Ghai, Advocate
for the petitioner.

Mr. Rahul Mohan, Sr. DAG, Haryana.

MANJARI NEHRU KAUL, J. (ORAL)

1. The petitioner is seeking the concession of bail under Section 439 of the Cr.P.C. in case FIR No.221 dated 07.04.2018 lodged under Section 302 of the IPC and Sections 25, 54, 59 of the Arms Act, 1959 (Sections 201 and 34 of the IPC added lateron) registered at Police Station Suraj Kund, District Faridabad.

2. Learned counsel for the petitioner inter alia contends that the petitioner has been falsely implicated in the murder of deceased Naresh @ Bander and there was no cogent evidence collected by the prosecution which could link him with the crime in question. He has further submitted that a perusal of the FIR in question reveals that even therein there was no suspicion raised by the complainant qua the involvement of the petitioner in the murder of Naresh @ Bander. Learned counsel submits that it was only when co-accused Vijay was arrested in case FIR No.241 of 2018 registered at Police Station Vasant Kunj, New Delhi under Sections 365/394 of the IPC and Sections

25/27/54/59 of the Arms Act, he allegedly suffered a disclosure statement wherein he spelt out the role of the petitioner in the crime in question. It has been submitted that the petitioner has now been in custody since 17.01.2020 and there is no likelihood of the trial concluding any time soon as the prosecution evidence has not even commenced. Learned counsel, therefore, prays that the petitioner be enlarged on bail more so since investigation is complete and no useful purpose would thus be served in keeping the petitioner behind bars.

3. Per contra, learned State counsel has vehemently opposed the prayer and submissions made by the counsel opposite for extending the concession of bail to the petitioner. It has been submitted that the weapon of offence i.e. a country made pistol was recovered from the possession of the petitioner. Learned State counsel has still further on instructions, submitted that the petitioner is a man of criminal antecedents. He was out on furlough while undergoing sentence in another criminal case, the crime in question was committed by him. He submits that the petitioner is a member of a gang with criminal antecedents and there is every likelihood that in case he is extended the concession of bail, he could either abscond or even try to influence the witnesses to depose in his favour and thus tamper with material evidence.

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

5. No doubt, the petitioner has been in custody since 17.01.20220, however, at the same time, this Court cannot turn a blind eye to the criminal antecedents of the petitioner, who, as informed by

the learned State counsel, is involved in a number of criminal cases not only in the State of Haryana but also in Delhi. The petitioner committed the crime in question while he was out on furlough in one of the criminal cases for which he was undergoing sentence. Hence, it is prima facie evident that he had misused the concession of furlough which had been extended to him. Learned State counsel on further instructions, has informed the Court that 08 prosecution witnesses are due to be examined before the Trial Court on 11.09.2023. This Court, in the facts and circumstance as enumerated hereinabove, does not deem it fit to extend the concession of bail to the petitioner.

6. Accordingly, the instant petition is dismissed. 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. However, the Trial court is directed to make earnest efforts to expedite the trial and endeavour to conclude it expeditiously preferably within 06 months from today.

01.08.2023

Vinay

(MANJARI NEHRU KAUL)
JUDGE

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