

Neutral Citation No.2023:PHHC:159936
IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CRM-M-37909 of 2023 (O&M)
Date of decision : 12.12.2023

...
Mangat Singh @ Manga

.....Petitioner

vs.

State of Punjab

.....Respondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present: Mr. Chetan Bansal, Advocate for the petitioner.

Mr. Sandeep Kumar, Deputy Advocate General,
Punjab, for the respondent/State

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MANJARI NEHRU KAUL, J. (ORAL)

The petitioner is seeking the concession of regular bail under Section 439 Cr.P.C., in case FIR No.135 dated 9.10.2021 under Section 302 of the Indian Penal Code, 1860, registered at Police Station Mullanpur, District SAS Nagar.

2 Learned counsel for the petitioner, inter alia contends that the FIR in question was lodged against unknown person(s) and there was no suspicion, much less, by way of a whisper raised qua the involvement of the petitioner in the murder of Jai Parkash Prashad (hereinafter referred to as 'the deceased'), who was running a junk shop in village Majra; the petitioner strangely came to be nominated as an accused on the basis of a disclosure statement recorded under Section 161 Cr.P.C., by one Gurvinder Singh on 15.10.2021 i.e. after 6 days of the crime in question, wherein he stated that on the fateful

day when he was sitting in the shop of the deceased, the petitioner, who was carrying a sword, while getting his hair cut, started arguing with the deceased; on the asking of said Gurvinder Singh, the petitioner gave out his name i.e Mangat Singh @ Manga. It has been vehemently argued by the learned counsel that it was highly improbable that in case the name of the petitioner was within the knowledge of said Gurvinder Singh, who had been stated to be present at the shop of the deceased, just prior to the occurrence in question and even thereafter, at the time of the occurrence was in the vicinity of the shop of the deceased, he, on hearing the shrieks of the deceased, would have chosen to keep quiet and not bring it to the notice of the police, that the petitioner had been arguing with the deceased in his presence. Learned counsel has thus contended that this abnormal delay of Gurvinder Singh, in getting his statement recorded under Section 161 Cr.P.C., and revealing the involvement of the petitioner in the murder of the deceased, leaves no manner of doubt that a false and fabricated case has been planted upon the petitioner.

3. Learned counsel has further submitted that the petitioner has been in custody since 14.10.2021 and after the charges were framed on 1.7.2022, only 3 prosecution witnesses out of 25 cited, had been examined. Hence, the likelihood of the trial concluding in the near future was not possible. It has also been submitted that the petitioner has clean antecedents and is not involved in any other criminal case.

4. Per contra, learned State counsel, while opposing the

prayer and submissions made by the counsel opposite, on instructions from ASI Raj Kumar, has not been able to dispute that there was no suspicion raised qua the involvement of the petitioner in the crime in question when the FIR in question was lodged. It has also not been disputed that though the FIR was lodged promptly however, it was after a delay of 6 days, for the first time, the role of the petitioner in the crime in question was spelt out by Gurvinder Singh when he got his statement recorded under Section 161 Cr.P.C.

5. On a pointed query put to the learned State counsel that if other than the statement recorded under Section 161 Cr.P.C., by Gurvinder Singh, any other material/evidence, had been collected by the Investigating Agency qua the involvement of the petitioner in the crime in question, he had replied in the negative. However, he has stated that said Gurvinder Singh stands examined and had supported the case of the prosecution.

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

7. Though the case is based on eye-witness account, however, the role of the petitioner in the crime in question came to the fore after 6 days of the occurrence in question and in the statement of PW-Gurvinder Singh, who as per instructions received by the learned State counsel, stands examined. PW-Gurvinder Singh is thus, the most material witness in the case in hand. This court in the above facts and circumstances, more so, since 22 prosecution witnesses still remain to be examined, deems it fit to extend the concession of bail to the petitioner. The petition as such is allowed

and the petitioner is 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.

12.12.2023
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(MANJARI NEHRU KAUL)
JUDGE

Whether speaking / reasoned Yes / No

Whether reportable Yes / No