

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

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2023:PHHC:127483

CRM-M-39457-2023

Date of decision: October 3rd, 2023

Gurjeet Singh @ Peeli

.....Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

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

Mr. Amit Rana, Senior Deputy Advocate General, Punjab.

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.141 dated 23.07.2021 under Sections 302, 148, 149 of the IPC and Sections 25 and 27 of the Arms Act, 1959, registered at Police Station Dharamkot, District Moga.

2. Learned counsel for the petitioner while drawing the attention of this Court to the FIR, which has been annexed as Annexure P-1, *inter alia*, contends that the petitioner was not named therein much less any allegation levelled against him. He submits that it was after 1 month and 7 days of the occurrence in question that the petitioner came to be arrayed as an accused in the crime in question in the supplementary statement of the complainant. It has been further submitted that while stepping into the witness box, the complainant had failed to support the case of the prosecution against all those accused, who had been named in the FIR, as a result of which he was declared

hostile. It has also been submitted that all the co-accused, who were named in the FIR, have since been enlarged on bail. Learned counsel has further drawn the attention of this Court to Annexure P-7, which is the deposition of the complainant, wherein it stands reflected that since he had failed to support the case of the prosecution, he had been declared hostile. A prayer has, therefore, been made that in the aforementioned facts and circumstances, further incarceration of the petitioner would serve no useful purpose as only one out of the 18 prosecution witnesses stands examined and thus, the trial would take considerable time to conclude.

3. *Per contra*, learned State counsel while opposing the prayer and submissions made by the counsel opposite, has not been able to dispute that the sole material witness i.e. the complainant, who was an eyewitness also to the occurrence in question, had not supported the case of the prosecution, as a result of which he was declared hostile during the trial. It has also not been disputed that the petitioner was not named in the FIR nor any role was attributed to him in the crime in question and he came to be arrayed as an accused subsequently on the basis of a supplementary statement made by the complainant after almost 1 month of the alleged occurrence.

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

5. The case in hand rests on eyewitness account. As per allegations levelled in the FIR, on the fateful day, all the co-accused armed with lethal weapons including firearms, had shot at the deceased, as a result of which he died at the spot. A perusal of the FIR reveals that the petitioner was not named therein nor any role attributed to him.

The petitioner has been in custody since 09.12.2022 and 17 prosecution witnesses still remain to be examined. Hence, the trial is unlikely to conclude in the near future.

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.

October 3rd, 2023
Puneet

(MANJARI NEHRU KAUL)
JUDGE

Whether speaking/reasoned : Yes
Whether reportable : No