

226 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-43814-2023
Decided on : 11.09.2023

Raju Maish @ Raju

..... Petitioner

Versus

State of Punjab

..... Respondent

CORAM : HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present : Mr. Rishu Mahajan, Advocate
for the petitioner.

Mr. Amit Rana, Sr. DAG, Punjab.

Manjari Nehru Kaul, J.(Oral)

1. Instant petition has been filed by the petitioner seeking concession of regular bail in case FIR No.07 dated 17.01.2022 under Section 302, 325, 323, 148 and 149 IPC registered at Police Station Khilchian District Amritsar.

2. While drawing the attention of this Court to the allegations levelled in the FIR (Annexure P-1), learned counsel for the petitioner contends that admittedly, neither the petitioner was armed with any weapon nor has he been attributed any specific injury much less fatal on the person of the deceased or even for that matter on the person of the injured witness. Learned counsel submits that the petitioner has been attributed only a *lalkara* and kick blows on the person of the deceased and the injured. Learned

counsel further submits that on the face of it, it comes across as a false and fabricated case as there was an unexplained delay of 32 days in lodging of the FIR, which had been used by the complainant party to bring forth a totally fabricated version against the opposite side. It has been further submitted that the petitioner has now been in custody for more than 1½ years having been arrested on 17.01.2022 and both the material witnesses i.e. the injured witness as well as alleged eyewitness/complainant stand examined. Learned counsel submits that in the circumstances, further incarceration of the petitioner, who has clean antecedents, would serve no useful purpose as the trial is unlikely to conclude in the near future.

3. Per contra, learned State counsel while opposing the prayer made by the counsel opposite has not been able to dispute that the petitioner has not been attributed any injury much less fatal on the person of the deceased or even on the injured witness. Learned State counsel however, on instructions, submits that the petitioner raised a *lalkara* and thereafter kicked the deceased as well as the injured. Learned State counsel has, however, not controverted that both the material witnesses stand examined and 17 prosecution witnesses still remain to be examined. It has been informed by the learned State counsel that the next date of hearing fixed before the Trial Court is 22.09.2023 when some more prosecution witnesses are likely to be examined.

4. Heard learned counsel for the parties and perused the relevant material on record.

5. The petitioner has been in custody since 17.01.2022. Both the material witnesses i.e. complainant as well as stamped witness, Prithipal Singh stand examined. 17 prosecution witness still remain to be examined. Thus, the trial is unlikely to conclude in the near future coupled with the fact that since the material witnesses stand examined there could be no possibility of the petitioner trying to influence the witnesses to depose in his favour. The petitioner is not involved in any other criminal case as apprised by the State counsel. In the facts and circumstances as enumerated hereinabove coupled with the nature of allegations levelled against the petitioner, the present petition is allowed. The petitioner be admitted to bail to the satisfaction to the trial Court/Duty Magistrate concerned.

6. 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.

11.09.2023
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(MANJARI NEHRU KAUL)
JUDGE

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