

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

227

2023:PHHC:109202

CRM-M-40175-2023

Date of decision: August 22nd, 2023

Kulbhushan @ Kulu

.....Petitioner

Versus

State of Haryana

.....Respondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present: Mr. R.S. Rai, Senior Advocate
with Mr. Vikas Kumar, Advocate
for the petitioner.

Ms. Trishanjali Sharma, Deputy Advocate General,
Haryana.

MANJARI NEHRU KAUL, J. (ORAL)

The petitioner is seeking concession of regular bail in case FIR No.0045 dated 24.02.2020 under Sections 148, 149, 341, 307, 302, 427, 506, 34, 120-B of the IPC and Section 25 of the Arms Act, 1959, registered at Police Station BPTP, District Faridabad.

2. Learned senior counsel for the petitioner, while drawing the attention of this Court to the allegations levelled in the FIR, submits that on the fateful day i.e. 23.02.2020 when the deceased along with one Dharmender @ Bhura alighted from his car, all the accused including the petitioner arrived at the spot and gunned him down. Learned senior counsel submits that however, it was a matter of record that while stepping into the witness box, all the material witnesses i.e. including the complainant as well as Dharmender @ Bhura, stamp witness and also PW-3 Vinod @ Binnu, who was also a witness to the occurrence and brother of the deceased, had not supported the case of

the prosecution, as a result of which they were declared hostile. Learned senior counsel, therefore, submits that it was evident that a false and fabricated version had been brought forth in the FIR in question against all the accused including the petitioner. He submits that the petitioner has now been in custody for close to three years having been arrested on 21.10.2022. He submits that all the four material witnesses out of the 44 cited have since been examined. Hence, in the aforementioned facts and circumstances, further incarceration of the petitioner would serve no useful purpose as there could be no likelihood of he trying to influence the material witnesses to depose in his favour.

3. *Per contra*, learned State counsel while opposing the prayer and submissions made by the counsel opposite, has not been able to dispute that though it is a case of eyewitness account, however, all the eyewitnesses including the stamped witness and the complainant while stepping into the witness box had not supported the case of the prosecution and resultantly declared hostile. She further however submits that the petitioner is a man of criminal antecedents as he is involved in a number of criminal cases under various sections of the Indian Penal Code.

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

5. As not disputed by the learned State counsel, all the material witnesses in the case in hand have not supported the case of the prosecution during trial and had been declared hostile. The trial is unlikely to conclude in the near future as 40 prosecution witnesses still remain to be examined. The petitioner has now been in custody since

21.10.2020. In the facts and circumstances, as enumerated hereinabove, this Court deems it fit to extend the concession of bail to the petitioner.

6. The instant petition is allowed. The petitioner be admitted to bail to the satisfaction of the trial Court/Duty Magistrate concerned. However, keeping in view the fact that the petitioner is involved in a number of criminal cases, in case, the petitioner misuses the concession of bail granted to him, the State would be at liberty to seek cancellation of the same.

7. It is made clear that anything observed hereinabove shall not be construed to be an expression of opinion on the merits of the case.

August 22nd, 2023
Puneet

(MANJARI NEHRU KAUL)
JUDGE

Whether speaking/reasoned : Yes
Whether reportable : No