

2023:PHHC:097074

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

213

CRM M-42983 of 2022

Date of Decision: July 28, 2023

Nanu @ Chetan

...Petitioner

Vs.

The State of Haryana

...Respondent

CORAM : HON'BLE MR. JUSTICE N.S.SHEKHAWAT

Present : Mr. Sandeep Singh Jattan, Advocate
for the petitioner.

Ms. Sheenu Sura, DAG, Haryana.

N.S.SHEKHAWAT, J. (Oral)

1. The petitioner has moved the present petition under Section 439 Cr.P.C. with a prayer to grant the concession of regular bail to him in case FIR No. 129 dated 07.05.2019 under Sections 302, 307, 323, 34, 341 and 506 IPC (Sections 148, 149, 324 and 212 IPC and Section 25 Arms Act added later on) registered at Police Station Parao Ambala Cantt., District Ambala.

2. Learned counsel for the petitioner contends that as per the version mentioned in the FIR, the petitioner is attributed blows with knife on the left side of the stomach and on the arms of Gourav, injured, while the co-accused Paiya and Sikander Deha had caught hold of him. Later on, due to the injuries suffered in the said incident, Mohit, cousin of complainant, succumbed to knife injuries, which were allegedly caused to him by Rahul and Rohit. As per the learned counsel, even though the petitioner is shown to be present at the place

of the alleged occurrence, but no specific injury to Mohit, since deceased, has been attributed to the petitioner. Learned counsel submits that as per the prosecution version, Rahul and Rohit had caused fatal injuries to Mohit, since deceased. Even during the course of investigation, a recovery of knife was allegedly shown from the present petitioner, on the basis of his disclosure statement. However, the said recovery of knife was highly doubtful as the same was recovered from a quarry below the service road, Ghasitpur over-bridge, G.T. Road, i.e., a public place. Even otherwise, as per the FSL report, the blood could not be detected on the knife recovered from the present petitioner and there was no evidence to connect him with the commission of the crime. Apart from that, the recovery of knife was also effected from Rohit, Rahul, Lucky, Raj Kumar @ Paiya and Sikander Deha, co-accused, on the basis of their respective disclosure statements. However, they have been granted the concession of regular bail by this Court. Still further, the petitioner had no motive to commit such a heinous crime and he has been falsely involved in the present case. Learned counsel further contends that the petitioner was arrested in the present case on 13.05.2019 and is in custody since last more than 04 years and 02 months. Thus, the further custody of the petitioner will serve no meaningful purpose.

3. On the other hand, the learned State counsel has vehemently opposed the prayer made by the present petitioner on the ground that grave allegations have been levelled against the petitioner

by the complainant and he may tamper with the prosecution evidence. Apart from that, several other cases have already been registered against the present petitioner and he is a habitual offender. As per the custody certificate, submitted by the learned State counsel, the present petitioner is in custody since 13.05.2019 in the present case. Even as per the State counsel, no witness has been examined so far and learned State counsel could not dispute the fact that Rohit, to whom, the injury to the deceased was attributed, has been granted the concession of regular bail by this Court vide order dated 13.10.2020 passed by this Court in CRM-M-31539-2020 (Annexure P-3).

4. I have heard learned counsel for the parties and perused the record with their able assistance.

5. It is not in dispute that the petitioner is in custody since 13.05.2019 and has undergone 04 years and 02 months of actual custody. Apart from that, the orders annexures P-3 to P-7 clearly show that Rohit, Dharminder @ Rishu, Lucky, Raj Kumar @ Paiya and Rahul, co-accused of the petitioner, who were almost similarly placed have already been granted the concession of bail by this Court/learned trial Court. Even though, several other cases are pending against the petitioner, but the petitioner has already undergone a substantial period and no witness has been examined by the prosecution so far. Thus, when the trial has been unnecessarily delayed by the prosecution, the present petitioner cannot be ordered to be confined in jail any further. Pendency of other cases is no ground to deny the bail

to the petitioner, when he is found entitled to the concession of bail in the present case. Apart from that, other similarly placed co-accused have already been granted the concession of bail vide orders annexures P-3 to P-7.

6. In view of the above, without commenting any further on the merits, the present petition is allowed and the petitioner is ordered to be released on bail on his furnishing bail bonds/surety bonds to the satisfaction of the learned trial Court/Duty Magistrate/CJM concerned.

7. It is clarified that the observations have been made in this order only for the limited purpose of disposal of the present bail application and the trial Court shall decide the main case independently on the basis of evidence led by the parties, uninfluenced by the observations made by this Court.

8. It is also made clear that the present petitioner shall not try to influence or threaten the complainant or any other witness of the present case. In case, the petitioner indulges in any such act, it shall be viewed seriously and the State/complainant shall be at liberty to move an application for cancellation of concession of bail granted to the present petitioner.

July 28, 2023

(N.S.SHEKHAWAT)

amit rana

JUDGE

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