

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

221

CRM-M-40856-2023

Date of decision: 25.08.2023

Gurpreet @ Gogi

.....Petitioner

Versus

State of Haryana

.....Respondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present : Mr. Abhilaksh Grover, Advocate
for the petitioner.

Ms. Trishanjali Sharma, DAG, Haryana.

MANJARI NEHRU KAUL, J. (ORAL)

1. The petitioner in the instant (second) petition is seeking the concession of bail under Section 439 of the Cr.P.C. in case FIR No.301 dated 18.10.2022 under Sections 307 and 34 of the IPC and Section 25 of the Arms Act (Sections 120-B, 201 of the IPC and Sections 54, 59 of the Arms Act added lateron) registered at Police Station Chhapar, District Yamuna Nagar.

2. Learned counsel for the petitioner submits that after the withdrawal of the previous petition on 19.05.2023 wherein similar relief had been sought, the complainant had been examined and had been declared hostile during trial.

3. Learned counsel for the petitioner submits that even otherwise a perusal of the FIR which has been annexed as Annexure P-1 reveals that the petitioner was not named therein nor was any role attributed to him in the occurrence in question. He came to be nominated as an accused in a disclosure statement allegedly suffered by

co-accused Anil Kumar, who just stated that the petitioner made the co-accused talk with one Daljit who was the main conspirator, on his phone. Learned counsel submits that a false case having been brought forth is further evident from the fact that all the material witnesses including the complainant while stepping into the witness box had not supported the case of the prosecution as a result of which they were declared hostile. In support, learned counsel has drawn the attention of this Court to the deposition of the prosecution witnesses which have been annexed as Annexures P-4 to P-6. It has further been submitted that one other material witness has been given up by the prosecution. Learned counsel submits that in the aforementioned facts and circumstances, since all the material witnesses have been examined and as already submitted have been declared hostile, his further incarceration would serve no useful purpose.

3. Per contra, learned State counsel while opposing the prayer made by learned counsel for the petitioner, on instructions from SI Mohan Lal, has not been able to dispute the factual aspect of the submissions made by the counsel opposite qua the alleged role played by the petitioner in the crime in question. She, on further instructions, has also not disputed that all the material witnesses including the complainant had been declared hostile during trial.

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

5. The petitioner has been in custody since 27.10.2022 and 13 prosecution witnesses still remain to be examined. The trial is, therefore, unlikely to conclude in the near future. In the facts and

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

6. Accordingly, 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.

25.08.2023

(MANJARI NEHRU KAUL)
JUDGE

Vinay

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