

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

225

2023:PHHC:150845

CRM-M-40825-2023

Date of decision: November 28th, 2023

Vinod Sahota alias Sunny Sahota

.....Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present: Mr. Ashish Aggarwal, Advocate
for the petitioner.

Mr. Mohit Kapoor, Additional Advocate General, Punjab.

MANJARI NEHRU KAUL, J. (ORAL)

This is a third petition filed by the petitioner seeking the concession of regular bail under Section 439 of the Code of Criminal Procedure, 1973 in case FIR No.57 dated 14.03.2021 under Sections 307, 353, 186, 148, 149 of the Indian Penal Code, 1860 and Section 25 of the Arms Act, 1959, at Police Station Division A, District Police Commissionerate Amritsar.

2. Learned counsel for the petitioner submits that the false implication of the petitioner in the crime in question is evident from the fact that while stepping into the witness box as PW-5, injured Dr. Bhavneet Singh failed to identify the petitioner as being the person, who had inflicted the injury inviting the mischief of Section 307 of the IPC and had not supported the case of the prosecution, as a result of which he was declared hostile. Learned counsel, in support has drawn the attention of this Court to the deposition of PW-5 Dr. Bhavneet Singh, which has been annexed as Annexure P-13. It has been further submitted that besides the injured, the eyewitnesses to the

occurrence while stepping into the witness box too did not support the case of the prosecution, as a result of which they were declared hostile. Learned counsel submits that the petitioner has now been in custody since 17.03.2021 and since all the material witnesses stand examined, his further incarceration would serve no useful purpose.

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 injured witness Dr. Bhavneet Singh had been declared hostile during trial. It has also not been disputed that the other eyewitnesses to the occurrence in question had also not supported the case of the prosecution, as a result of which they were declared hostile. However, learned State counsel submits that one of the police officials, who was present at the time of alleged occurrence, had supported the case of the prosecution and stated that it was the petitioner, who had fired from his firearm at the thigh of the injured. Learned State counsel has further submitted that the petitioner, during investigation, had also confessed to his involvement in the crime in question. Learned State counsel, on further instructions, has informed the Court that the prosecution evidence stands concluded and now the case is fixed for recording of statements under Section 313 of the Cr.P.C. on 02.12.2023.

4. Learned counsel appearing for the petitioner has yet again reiterated qua the innocence of the petitioner. It has been further submitted that any confession made before the police is inadmissible and it is in this background, the deposition of one of the police officials, who supported the case of the prosecution, deserves to be discarded.

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

6. The petitioner has been in custody since 17.03.2021 and all the material witnesses stand examined and as not even disputed, were declared hostile during trial.

7. 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.

November 28th, 2023
Puneet

(MANJARI NEHRU KAUL)
JUDGE

Whether speaking/reasoned : Yes

Whether reportable : No