

216 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-45351-2022
Decided on : 06.07.2023

Ishwar @ Pali

..... Petitioner

Versus

State of Haryana

..... Respondent

CORAM : HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present : Mr. Mohit Rathee, Advocate
for the petitioner.

Mr. Rahul Mohan, Sr. DAG, Haryana.

Manjari Nehru Kaul, J.(Oral)

1. The petitioner is seeking concession of regular bail in case FIR No.272 dated 24.07.2017 under Sections 302/34 IPC and Section 25/29/54/59 of the Arms Act registered at Police Station Beri Jhajjar District Jhajjar.
2. Learned counsel for the petitioner at the outset has drawn the attention of this Court to the deposition of the complainant, who was also stated to be an eyewitness to the murder of his brother namely Bijender. Learned counsel submits that a perusal of the deposition of the complainant annexed with the petition reveals that the complainant had not supported the case of the prosecution and as a result of which had been declared hostile. It has been further submitted that other material witnesses including another eyewitness had also not supported the case of the prosecution as a result of which they were all declared hostile. Learned counsel, thus, prays that in the aforementioned facts and circumstances, it is evident that the petitioner had

been falsely implicated in the case in hand and his further incarceration would serve no useful purpose.

3. Per contra, learned State counsel while opposing the prayer made by the counsel opposite has not been able to dispute that all the material witnesses including the complainant had been declared hostile during trial. Learned State counsel on instructions from ASI Parvin however submits that the petitioner is involved in three other criminal cases.

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

5. The case in hand rests on eyewitness account. Since the eyewitnesses have not supported the case of the prosecution and were declared hostile, further incarceration of the petitioner, in the circumstances, would serve no useful purpose, more so, as he has been in custody for more than 5 years now, having been arrested on 17.07.2018. The petitioner, though is involved in three other criminal cases, however, as submitted by the learned State counsel on instructions, the petitioner is in custody in all those cases. Accordingly, 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.

06.07.2023
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(MANJARI NEHRU KAUL)
JUDGE

Whether speaking/reasoned:
Whether reportable :

Yes/No
Yes/No