

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

220

2023:PHHC:117819

CRM-M-43570-2023

Date of decision: September 6th, 2023

Rafik

.....Petitioner

Versus

State of Haryana

.....Respondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present: Mr. Balraj Gujjar, Advocate
for the petitioner.

Mr. Karan Jindal, Assistant Advocate General, Haryana.

MANJARI NEHRU KAUL, J. (ORAL)

This is a second petition seeking the concession of bail under Section 439 Cr.P.C. in case FIR No.330 dated 23.10.2020 under Sections 148, 149, 323, 324, 307, 506 of the IPC registered at Police Station Hathin, District Palwal.

On a pointed query put to learned counsel for the petitioner as to what was the material change in the circumstances after the earlier petition was dismissed on merits, wherein similar relief had been sought on 09.05.2023, it has been submitted that all the material witnesses including the injured witnesses stand examined. It has also been submitted that it is matter of record that all those material witnesses including the injured witnesses, 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 witnesses which has been annexed as Annexure P-2 to P-8, wherein the factum of all these witnesses having been declared hostile stands reflected. Learned counsel submits that the petitioner has now been in custody since 09.12.2022 and 13 prosecution witnesses still remain to

be examined. Hence, his further incarceration in the above facts and circumstances would serve no useful purpose. It has been further submitted that it is a case of version and cross-version, wherein injuries were received by both the parties.

Per contra, learned State counsel, while opposing the prayer, has not been able to controvert that in both the cases i.e. version and cross-version, all the material witnesses stand examined and on account of they not supporting the case of the prosecution, had been declared hostile. He has further submitted that the next date of hearing before the trial Court is 20.09.2023, when some more prosecution witnesses have been summoned to depose.

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

In the facts and circumstances as enumerated hereinabove, particularly, since all the material witnesses including the injured witnesses have been examined and declared hostile, further incarceration of the petitioner would serve no useful purpose. The instant petition is, therefore, 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.

Needless to say, in case the petitioner misuses the concession of bail granted to him, the State would be at liberty to seek cancellation of the same.

September 6th, 2023
Puneet

(MANJARI NEHRU KAUL)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No