

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

203

CRM-M-46693-2022 (O&M)

Date of decision: 17.03.2023

Chhatar Singh

.....Petitioner

Versus

State of Haryana

.....Respondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present : Mr. R.S. Rai, Sr. Advocate with
Mr. Karan Pathak, Advocate
for the petitioner.

Mr. Chetan Sharma, AAG, Haryana.

MANJARI NEHRU KAUL, J. (ORAL)

The petitioner is seeking the concession of bail under Section 439 of the Cr.P.C. in case FIR No.38 dated 12.02.2022 under Sections 302 and 34 of the IPC and Sections 25/54 of the Arms Act, 1959 (charges framed under Section 302 read with Section 34 of the IPC and Section 27 of the Arms Act, 1959) registered at Police Station Sadar Palwal, District Palwal.

Learned senior counsel for the petitioner *inter alia* submits that as per the allegations levelled in the FIR in question, while the complainant was taking the deceased to the hospital after the occurrence in question, the latter told him that he had been shot at by the accused including the petitioner under a conspiracy. Learned senior counsel submits that, however, the allegations levelled and the version brought forth on the face of it comes across as being highly unnatural and concocted because as per the post-mortem report the deceased had

died instantaneously on receiving the fire arm injury, therefore, it was highly improbable that he could have been in a position to tell the complainant that he had been shot at by all the accused including the petitioner. Learned senior counsel has also submitted that all the accused including the petitioner and the deceased were no doubt present in the house of co-accused Shishpal @ Satpal when the occurrence in question took place, however, even it stood noticed in the order of the Trial Court (Annexure P-8) that the bullet after being fired hit the wall and thereafter deflected towards the deceased which in turn proved to be fatal. Learned senior counsel in support drew the attention of this Court to the post mortem report (Annexure P-3) which showed the recovery of a totally deformed bronze colour metallic bullet of circumference 2 cm, length 1.2 cm and width 1 cm embedded in left side of occipital bone situated 2 cm lateral to midline. Learned senior counsel also referred to the seizure memo (Annexure P-2) to substantiate his submissions. Learned senior counsel has also submitted that all the other accused who were allegedly present at the time of the alleged occurrence and who allegedly instigated the petitioner to fire towards the deceased had been extended the concession of regular bail by the Trial Court. He submits that the petitioner has now been in custody since 14.02.2022 and since the conclusion of trial will take considerable time, he be released on bail as prosecution evidence is yet to commence. It has also been submitted that the petitioner is not involved in any other criminal case of similar nature.

Per contra, learned State counsel while opposing the prayer

made by the counsel opposite, submits that the petitioner is accused of committing a serious offence as a result of which one person lost his life, therefore, he does not deserve the concession of bail. Learned State counsel has, however, not been able to controvert the fact that the petitioner is not involved in any other case of similar nature.

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

The petitioner has now been in custody since 14.02.2022 and after completion of investigation, the challan stands presented before the Court concerned. The trial is unlikely to conclude in the near future as prosecution evidence has not yet commenced. The petitioner, as per the instructions received by learned State counsel, is not involved in any other criminal case of similar nature, hence, this Court deems it fit to extend the concession of bail to the petitioner.

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.

17.03.2023

Vinay

(MANJARI NEHRU KAUL)
JUDGE

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