

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

1. CRM-M No.45708 of 2023

Baldev Singh @ Buri

... Petitioner

Versus

State of Punjab

... Respondent

2. CRM-M No.46185 of 2023

Harwinder Singh Sandhu

... Petitioner

Versus

State of Punjab

... Respondent

Date of decision: 20th September, 2023

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present: Mr. Som Nath Saini and Mr. Umaid S. Mann, Advocates
for the petitioners.

Mr. Amit Rana, Sr. Deputy Advocate General, Punjab
for the respondent/State.

MANJARI NEHRU KAUL, J. (ORAL)

1. The petitioners in both the petitions detailed hereinabove are seeking the concession of bail under Section 439 Cr.P.C. in case FIR No.24 dated 18.03.2020 under Sections 302, 307, 450, 427, 336, 506, 148, 149, 120-B IPC and sections 25/27/29/54/59 of the Arms Act, 1959 registered at Police Station Sri Hargobindpur, District Gurdaspur.

2. Learned counsel for the petitioners inter alia contend that false implication of the petitioners in the crime in question is evident

from the fact that while stepping into the witness box all the material witnesses, including complainant Amarjit Singh as well as injured Narinder Kaur were declared hostile as they did not support the case of the prosecution. It has been further submitted that even as per the contents of the FIR, which has been annexed with the petitions, the petitioners were not named in the FIR in question nor was there any role attributed to them in the crime in question. Furthermore, the petitioners were nominated as accused on the disclosure statement suffered by co-accused Karamjit Singh @ Karan, Justin @ Jassa and Amit, wherein they stated that the weapon of offence had been provided by the petitioners. Learned counsel have submitted that the above two co-accused, on whose disclosure statement the petitioners came to be nominated as accused, had already been extended the concession of bail by this Court vide orders dated 02.05.2023, 22.03.2023 and 28.07.2023 respectively.

3. Learned counsel, therefore, submit that in the above facts and circumstances, when no role much less fatal injury has been attributed to the petitioners, coupled with the fact that all the material witnesses stand examined, further incarceration of the petitioners would serve no useful purpose more so as 33 prosecution witnesses out of the 43 cited, still remain to be examined.

4. Per contra, learned State counsel while opposing the prayer made by learned counsel for the petitioner, on instructions from ASI Sarwan Singh, has not been able to dispute that the petitioners were not named in the FIR in question nor was any role attributed to them in the

crime in question. Learned State counsel, however, submits that the weapon of offence had been supplied by the petitioners to the co-accused with which they shot dead Jasbir Kaur and injured Narinder Kaur. However, learned State counsel has not disputed that all the material witnesses including the complainant, who allegedly witnessed the occurrence in question as well as Narinder Kaur (stamped witness), had not supported the case of the prosecution as a result of which they both were declared hostile.

5. On a pointed query put to the learned State counsel qua the criminal antecedents of the petitioners, he has informed the Court that the petitioners are not involved in any other criminal case.

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

7. The case in hand is based on eye witness account. Both the material witnesses in the case in hand not only stand examined but have admittedly not supported the case of the prosecution as a result of which they were declared hostile during trial. The trial would take considerable time to conclude as 33 prosecution witnesses still remain to be examined, therefore, further incarceration of the petitioners in the case in hand would serve no useful purpose. In the facts and circumstances as enumerated hereinabove, this Court deems it fit to extend the concession of bail to the petitioners.

8. Accordingly, the instant petitions are allowed. The petitioners 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.

9. Needless to add here, in case the petitioners misuse the concession of bail, the State would be at liberty to approach this Court for cancellation of bail in the instant case.

(MANJARI NEHRU KAUL)
JUDGE

September 20, 2023

rps

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