

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

CRM-M No.47496 of 2023
Date of decision: 25th September, 2023

Abhishek Kushwaha

... Petitioner

Versus

State of Haryana

... Respondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present: Ms. Diksha & Mr. Kapish Singla, Advocate
for the petitioner.

Mr. Rahul Mohan, Sr. Dy. Advocate General, Haryana
for the respondent/State.

MANJARI NEHRU KAUL, J. (ORAL)

1. The petitioner is seeking the concession of bail under Section 439 Cr.P.C. in case FIR No.164 dated 03.05.2023 under Sections 323, 427, 436, 34 IPC registered at Police Station Sadar Pehowa, District Kurukshetra.

2. Learned counsel, while drawing the attention of this Court to the allegations levelled in the FIR, which has been annexed as Annexure P-1, inter alia submits that allegedly the petitioner along with co-accused, who had been sent by one Bhim Saini alias Monu for 'machine trial' in the factory of the complainant, after vandalizing it, set it on fire and even assaulted the watchman. Learned counsel submits that the factory was a foam factory and hence, there was a strong likelihood of it having caught fire on its own. It has further been submitted that a false version having

been brought forth was evident from the fact that there was no medical evidence on record, much less the MLR of injured Ravindra (Chowkidar of the factory), who was allegedly assaulted and sustained injuries at the hands of the petitioner. Learned counsel for the petitioner, still further submits that he has clean antecedents and has been in custody since 03.05.2023 and after challan was presented, even charges have been framed however, none of the 10 prosecution witnesses cited have been examined so far. Hence, there is no likelihood of the trial concluding in the near future. It has been further submitted that similarly placed co-accused Ravender Kushwah alias Golu has since been extended the concession of regular bail by this Court vide order dated 12.09.2023. A prayer has therefore, been made for extending the concession of bail to the petitioner, as 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, on instructions from SI Tek Chand, has not been able to dispute that though allegations were levelled against the petitioner of having physically assaulted the chowkidar of the complainant's factory with an iron rod, however, there was no medico legal report in support thereof. On a pointed query put to the learned State counsel as to whether the petitioner was involved in any other criminal case, he, on instructions has replied in the negative.

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

5. The petitioner has now been in custody since 03.05.2023 and there is no likelihood of the trial concluding in the near future as 10 prosecution witnesses have been cited by the prosecution who are yet to be examined. In the facts and circumstances as enumerated hereinabove coupled with the nature of allegations levelled and the fact that co-accused Ravender Kushwah alias Golu has already been extended the concession of regular bail by this Court, this Court, thus, deems it fit to extend the concession of bail to the petitioner. The petition as such is allowed and the petitioner is admitted to bail to the satisfaction of the trial Court/Duty Magistrate. 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.

(MANJARI NEHRU KAUL)
JUDGE

September 25, 2023
rps

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