

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

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2023:PHHC:136772

CRM-M-48105-2023

Date of decision: October 19th, 2023

Anil Kumar @ Kala

.....Petitioner

Versus

State of Haryana

.....Respondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present: Mr. Ashish Grewal, Advocate
for the petitioner.

Mr. Rahul Mohan, Senior Deputy Advocate General,
Haryana.

MANJARI NEHRU KAUL, J. (ORAL)

Petitioner is seeking the concession of bail under Section 439 of the Code of Criminal Procedure, 1973 in case FIR No.301 dated 18.10.2022 under Sections 307, 34 of the IPC and Section 25 of the Arms Act (Section 120-B IPC added later on) registered at Police Station Chhappar, District Yamuna Nagar.

2. Learned counsel for the petitioner submits that after the withdrawal of the previous petition on 19.03.2023, wherein similar relief had been sought, all the material witnesses including the complainant had been examined and had not supported the case of the prosecution, as a result of which, they were declared hostile. He further submits that even otherwise, as per the allegations levelled in the FIR in question, the petitioner was not named therein and there was no specific role attributed to him. Learned counsel submits that in the facts and circumstances, it was evident that a false and fabricated case had been planted upon the petitioner. Learned counsel has further submitted that

since all the material witnesses stand examined and the petitioner has

now been in custody for almost a year, having been arrested on 27.10.2022, his further incarceration would serve no useful purpose as the trial would take considerable time to conclude.

3. *Per contra*, learned State counsel while opposing the prayer and submissions made by the counsel opposite, on instructions from S.I. Mohan Lal, has however, not disputed that all the material witnesses including the complainant, while stepping into the witness box, had been declared hostile. He, on further instructions, has apprised the Court that 13 prosecution witnesses still remain to be examined, however, they are formal in nature. In addition, it has not been disputed by learned State counsel that it is a case of no injury.

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

5. Petitioner has been in custody since 27.10.2022 and as not disputed by the learned State counsel, 13 prosecution witnesses still remain to be examined and all the material witnesses have not only been examined but also failed to support the case of the prosecution. In the circumstances, the trial is unlikely to conclude in the near future.

6. In the facts and circumstances as enumerated hereinabove, 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.

October 19th, 2023*Puneet***(MANJARI NEHRU KAUL)
JUDGE**

Whether speaking/reasoned : Yes

Whether reportable : No