

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

237

CRM-M-49785-2023

Date of decision: 09.10.2023

Inderpal Singh @ Raja

.....Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present : Mr. Kuldeep V. Singh Ahluwalia, Advocate with
Ms. Jaspreet Kaur, Advocate and
Mr. Deepak Kumar, Advocate
for the petitioner.

Mr. Digvijay Nagpal, AAG, Punjab.

MANJARI NEHRU KAUL, J. (ORAL)

1. The petitioner is seeking the concession of bail under Section 439 of the Cr.P.C. in case FIR No.137 dated 07.08.2021 under Sections 302/307/324/341/148/149/109 of the IPC registered at Police Station Shahkot, District Jalandhar.

2. Learned counsel for the petitioner inter alia contends that the FIR in question was lodged by the mother of the deceased, who was stated to be an eye witness to the occurrence in question. While drawing the attention of this Court to the allegations levelled in the FIR, which has been annexed as Annexure P-1, learned counsel has submitted that the complainant had named as many as 06 persons who had allegedly participated in the murder of her son by inflicting various injuries with datars and swords on his person. He submits that the complainant had not even by way of a whisper alleged therein that other than those 06 persons, any other person, much less unidentified, had

also participated in the crime in question. Thereafter on 10.08.2021 i.e. after 04 days of the occurrence in question, one of the accused i.e. Rahul @ Gopi, who was named in the FIR, on being arrested, allegedly suffered a disclosure statement wherein he named two persons i.e. Sanju and the petitioner of having participated in the crime, along with him in inflicting injuries on the person of the deceased. Learned counsel has argued that this disclosure statement runs totally contrary to the allegations levelled in the FIR as the complainant had nowhere alleged that other than the 06 persons named, some other persons too had participated in crime in question or were even present. Learned counsel thus, submits that all these aforementioned facts and circumstances need to be appreciated in the light of a delayed FIR as the occurrence in question had taken place on 06.08.2021 at about 04:30 P.M. whereas the FIR in question came to be registered on the following day at 03:45 P.M. Hence, it is evident that the disclosure statement has either been fabricated by the prosecution or in the alternative, a fabricated version has been brought forth by the complainant. Learned counsel submits that the petitioner has been in custody since 12.08.2021 and the trial has not yet concluded as only examination in chief of the complainant has been recorded till date, hence, there is no likelihood of the trial concluding in the near future for which the petitioner deserves to be given the concession of bail.

3. Per contra, learned State counsel while opposing the prayer made by learned counsel for the petitioner, on instructions from ASI Balbeer Singh, has not been able to dispute that the petitioner was not named in the FIR in question and still further the complainant, who was

stated to be an eye witness to the alleged crime, had not even by way of a whisper alleged that other than 06 persons named, there was some unidentified person(s) who had participated in the occurrence in question. He, however, submits that on 10.08.2021, when co-accused Rahul @ Gopi was apprehended, he named the petitioner as well as one co-accused Sanju of having participated in the murder of the deceased along with him. Learned State counsel submits that out of 06 persons named in the FIR, 05 persons had been found innocent during investigation and placed in column No.2, however, pursuant to an application moved under Section 319 of the Cr.P.C., they too had been summoned to face trial as additional accused. He submits that it is in the above background that the trial had not progressed further as a denovo trial has now commenced.

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

5. The petitioner has been in custody since 12.08.2021. It is not in dispute that the petitioner was not named in the FIR in question by the complainant who is stated to be an eye witness, but was named as an accused on the basis of a disclosure statement. The trial is unlikely to conclude in the near future as 25 prosecution witnesses remain to be examined after the commencement of a denovo trial. The sole material witness in the case in hand i.e. the complainant already stands examined. Thus, in the totality of the facts and circumstances as enumerated hereinabove, this Court deems it fit to extend the concession of bail to the petitioner.

6. Accordingly, the instant petition is allowed. The petitioner

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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.

09.10.2023 (MANJARI NEHRU KAUL)
Vinay JUDGE

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