

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

209

**CRM-M-51922-2022
Date of decision: 28.02.2023**

SandeepPetitioner
Versus

State of HaryanaRespondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present : Mr. Sunil Saharan, Advocate for the petitioner.

Mr. Rahul Mohan, DAG, Haryana.

MANJARI NEHRU KAUL, J. (ORAL)

The petitioner is seeking the concession of bail under Section 439 of the Code of Criminal Procedure, 1973 in case First Information Report (for short, 'FIR') No.470 dated 22.10.2016 under Sections 307, 452 and 34 of the Indian Penal Code, 1860 (for short, 'the IPC') and Section 25 of the Arms Act, 1959 (Sections 302, 303 and 120-B of the IPC added lateron) registered at Police Station Narnaund, District Hisar.

Status report by way of affidavit of Raj Singh, HPS, Deputy Superintendent of Police, City Hansi, District Hisar, has been filed in the Court today which is taken on record subject to all just exceptions.

Learned counsel for the petitioner submits that the petitioner has been falsely implicated in the case in hand which finds credence from the fact that while stepping into the witness box, complainant Kamal, who was also stated to be an eye witness to the occurrence, failed to identify the petitioner. He further submits that the petitioner has now been in custody since 21.12.2016 and there is no

likelihood of the trial concluding in the near future as only 25 out of the 49 prosecution witnesses stand examined. Learned counsel further submits that 04 other co-accused who had been attributed similar roles in the crime in question had been extended the concession of bail by a Coordinate Bench(s) of this Court.

Per contra, learned State counsel on instructions from ASI Karambir, has vehemently opposed the prayer and submissions made by the counsel opposite by submitting that firstly the petitioner is a man of criminal antecedents as he is involved in as many as 11 other criminal cases of similar nature including cases pending against him in different parts of the country. Still further, the petitioner stands convicted in one of the criminal cases. He has further urged that the petitioner does not deserve the concession of bail as the crime in question was committed while he was on bail in the other criminal cases registered against him.

Learned State counsel has further submitted that no doubt the complainant had failed to identify the petitioner during trial, however, the complainant while lodging the FIR had stated that all the accused had come to the place of occurrence with muffled faces and thereafter fired indiscriminately with their respective fire arms on the person of Arvind (since deceased), injured Sandeep and the complainant. During the occurrence in question, muffler of one of the assailants Ramkesh fell down, who was then immediately identified by the complainant and also named in the FIR. In support, learned State counsel has drawn the attention of this Court to the FIR (Annexure P-1). Subsequently, co-accused Ramkesh on being arrested made a disclosure statement wherein he stated that the petitioner was one of the

unidentified boys who was accompanying him at the time of occurrence. Learned State counsel submits that in the circumstances, no benefit can be derived by the petitioner in case the complainant failed to identify the petitioner. He has further submitted that the empties recovered from the place of occurrence, as per FSL report had been fired from the pistol recovered from the petitioner.

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

Prima facie there are serious allegations against the petitioner of having fired indiscriminately at the complainant party as a result of which one person lost his life while two other persons including the complainant received serious injuries. No doubt, the petitioner was not identified by the complainant during trial, however, as per the report of FSL, the empties of cartridges recovered from the place of occurrence were fired from the fire arm allegedly recovered from the petitioner. Besides this, the petitioner is admittedly facing trial in a number of criminal cases of similar nature. As such, in view of his alleged criminal antecedents, this Court does not find it a fit case to allow the instant petition. Accordingly, the instant petition is dismissed.

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.

28.02.2023

Vinay

(MANJARI NEHRU KAUL)
JUDGE

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