

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

CRM-M No.49999 of 2023
Date of decision: 9th October, 2023

Gaurav

... Petitioner

Versus

State of Haryana

... Respondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present: Mr. Sukhwinder S. Kamboj, Advocate for the petitioner.
Mr. Gurmeet Singh, Asst. 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.70 dated 20.03.2022 under Sections 323, 324, 34 IPC (Sections 325, 326, 307 IPC added later on) registered at Police Station Sadar Ambala, District Ambala. This is the second petition filed by the petitioner.

2. Learned counsel for the petitioner submits that after withdrawal of the previous petition under Section 439 Cr.P.C., the sole injured i.e. Tarun has been examined before the trial Court and he had not supported the case of the prosecution, as a result of which he has been declared hostile. It has also been submitted that the complainant, who was an eye-witness to the occurrence in question, had also not supported the case of the prosecution, as a result of which, he too has been declared

hostile. Learned counsel submits that the petitioner has now been in custody since 20.05.2022 and 14 witnesses out of the 16 cited by the prosecution still remain to be examined, and hence, his further incarceration would serve no useful purpose as there is no likelihood of the trial concluding in the near future.

3. Per contra, learned State counsel while opposing the prayer and submissions made by the counsel opposite, on instructions, has not been able to controvert that the sole material witness i.e. the injured Tarun, while stepping into the witness box as PW-2 had not supported the case of the prosecution and during his examination in chief, had deposed that the four boys, who were named in the FIR, could not be identified by him as their faces were smeared with colours on the occasion of festival of Holi.

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 20.05.2022. As per the deposition of the injured witness, which has been annexed as Annexure P-6, he did not identify the petitioner as being one of the persons, who inflicted injuries to him in the occurrence in question, as a result of which he was declared hostile. Both the material witnesses, thus stand examined. The remaining 14 prosecution witnesses, are formal in nature. In the facts and circumstances as enumerated hereinabove and keeping in mind the deposition of the injured witness, 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

October 9, 2023

rps

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