

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

208

2023:PHHC:114685

CRM-M-53775-2022

Date of decision: September 1st, 2023

Imran

.....Petitioner

Versus

State of Haryana

.....Respondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present: Mr. R.S. Rai, Senior Advocate
with Mr. Karan Pathak, Advocate
for the petitioner.

Ms. Trishanjali Sharma, Deputy Advocate General,
Haryana.

MANJARI NEHRU KAUL, J. (ORAL)

The petitioner is seeking the concession of regular bail in FIR No.61 dated 29.01.2018 under Sections 379-B and 34 of the Indian Penal Code and Section 25 of the Arms Act, 1959 (Sections 120-B, 201, 342, 392, 395, 397, 482, 412 of the IPC and Sections 27 and 29 of the Arms Act have been added later on and Section 34 of the IPC has been deleted). This is the second petition of the petitioner after the previous petition was withdrawn on 08.03.2022 wherein similar relief has been sought.

2. On 23.08.2023, when the matter came up for hearing, the following order was passed:-

“2. Learned Senior counsel submits that after the withdrawal of the previous petition, both the material witnesses i.e. complainant-Sonia as well as alleged eye-witness PW-1 Bharat Bhushan had been examined; while the complainant-Sonia had been declared hostile, PW-1 Bharat Bhushan had failed to identify the accused during trial. Learned Senior counsel has further argued that the FIR in question was registered against unknown persons on

29.01.2018 and it was only on 14.07.2020, on the receipt of some secret information, the petitioner was arrested in the case in hand. It has also been submitted that besides the secret information, one disclosure statement was also purportedly made by the petitioner pursuant to which recovery of 80 grams of gold was effected along with another amount of Rs. 25 lacs. Learned Senior counsel has asserted that there was no evidence, much less, cogent on record, other than the aforementioned alleged recovery to connect the petitioner with the crime in question. It has also been submitted that the petitioner is not involved in any other criminal case much less a case of similar nature which, in turn, lends credence to his false implication in the case in hand. Learned Senior counsel has further apprised the Court that similarly situated co-accused Rajiv, who too was arrayed as an accused on the basis of the alleged secret information, has been admitted to bail by this Court vide order dated 07.09.2022 (Annexure P-2) while another co-accused, namely, Bijender has been granted bail by the Additional Sessions Judge, Panipat dated 17.09.2022.

3. Learned State counsel, while opposing the prayer and submissions made by learned counsel opposite, has not controverted that the complainant, who was stated to be an eye witness to the crime in question had been declared hostile during trial and PW-1 Bharat Bhushan had failed to identify the petitioner during trial. 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 informed the Court that though the petitioner is not involved in any criminal case in the State of Haryana, however, he is involved in three other criminal cases in the State of Uttar Pradesh, including cases under the Arms Act and under Section 307 IPC, which has been withheld from this Court.

4. Learned Senior counsel, however, has disputed the submissions made by learned counsel for the State qua the pendency of other criminal cases against him.

5. *In the circumstances, learned State counsel is directed to verify again qua the criminal antecedents of the petitioner and apprise this Court on the next date of hearing.*

Adjourned to 01.09.2023.”

3. In compliance of the said order, learned State counsel, on instructions from S.I. Jaibir Singh, submits that on the last date of hearing, she had received wrong instructions qua the involvement of the petitioner in some criminal cases in the State of Uttar Pradesh. She on instructions, has apprised the Court today that the petitioner is not involved in any other criminal case.

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

5. 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.

6. Needless to say, in case the petitioner misuses the concession of bail granted to him, the State would be at liberty to seek cancellation of the bail granted to him.

September 1st, 2023

Puneet

**(MANJARI NEHRU KAUL)
JUDGE**

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No