

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

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2023:PHHC:142855

CRM-M-54960-2023

Date of decision: November 8th, 2023

Lovepreet Masih alias Babbu

.....Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present: Mr. Rishu Mahajan, Advocate
for the petitioner.

Ms. Kanica Sachdeva, Assistant Advocate General, Punjab.

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.7 dated 17.01.2022 under Sections 302, 325, 323, 148, 149 of the IPC registered at Police Station Khilchian, Amritsar.

2. Learned counsel for the petitioner while drawing the attention of this Court to the FIR, which has been annexed as Annexure P-1, *inter alia*, contends that the petitioner has been attributed a simple injury with an iron rod on the neck of the deceased. It has been further submitted that other than this, the petitioner has not been attributed any role in the crime in question. Learned counsel has also submitted that the petitioner has now been in custody since 23.01.2022 in a case of false implication, which is evident from the fact that even though it was a case of eyewitness account, there had been an abnormal delay of 32 days in the lodging of the FIR. It is further submitted that similarly situated co-accused Akashdeep Masih @ Aakash, Judge Masih and Raju Masih @ Raju have since been

extended the concession of bail. Learned counsel has also further submitted that the fatal injury has been attributed to co-accused Navtej Masih, who is still behind bars. Learned counsel submits that in the facts and circumstances, more so since the petitioner has not been attributed any fatal injury on the person of the deceased, coupled with the fact that only four prosecution witnesses out of the 19 cited have been examined so far, his further incarceration would serve no useful purpose.

3. *Per contra*, learned State counsel while opposing the prayer and submissions made by the counsel opposite, has not been able to dispute that there was indeed a delay of 32 days in the lodging of the FIR in question, even though it was a case of eyewitness account. It has also not been disputed that the co-accused Navtej Masih has been attributed the fatal injury on the head of the deceased and the injury attributed to the petitioner is a simple injury on the neck of the deceased.

4. On a pointed query put to the learned State counsel with respect to the criminal antecedents of the petitioner, she has informed the Court that he is not involved in any other criminal case.

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

6. The petitioner has been in custody since 09.02.2022. As many as four prosecution witnesses including the complainant as well as the injured witness stand examined, however, 15 prosecution still remain to be examined. Hence, trial is unlikely to conclude in the near future.

7. 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.

November 8th, 2023
Puneet

(MANJARI NEHRU KAUL)
JUDGE

Whether speaking/reasoned : Yes
Whether reportable : No