

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

244

2023:PHHC:142813

CRM-M-54826-2023

Date of decision: November 8th, 2023

Sanju alias Dhol

.....Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present: Mr. Shubham Goyal, 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.137 dated 07.08.2021 under Sections 302, 307, 324, 341, 148, 149 and 109 of the IPC registered at Police Station Shahkot, District Jalandhar.

2. Learned counsel for the petitioner while drawing the attention of this Court to the allegations levelled in the FIR, which has been annexed as Annexure P-1, *inter alia*, contends that a perusal of the same reveals that though the occurrence in question was witnessed by the complainant and she had specifically named all the accused along with specific roles played by them in the murder of her son, however, there was no mention made therein of the petitioner much less of any other unidentified person accompanying the accused. It has been submitted that it was four days after the occurrence in question, a disclosure statement was allegedly suffered by co-accused Rahul alias Gopi, who stated that the petitioner was also present along with them when they inflicted injuries on the person of the deceased.

Learned counsel submits that even in the disclosure statement, there was no allegation of the petitioner having actively participated in the crime in question, much less of having inflicted any injury on the person of the deceased. It has thus been submitted that it is evidently a case of false implication, which in turn has to be appreciated in the light of the fact that the petitioner was nominated as an accused on the basis of a disclosure statement, which has very weak evidentiary value. Learned counsel has submitted that the petitioner, who has clean antecedents, has been in custody for more than two years having been arrested on 11.08.2021 and till date only one prosecution witness out of the 26 cited has been examined. Hence, there is no likelihood of the trial concluding in the near future.

3. *Per contra*, learned State counsel while opposing the prayer of the counsel opposite, has not been able to dispute the aforementioned submissions made by the counsel opposite. It has also not been disputed that the sole material witness in the case in hand i.e. the complainant, who was also an eyewitness to the crime in question, stands examined. Learned State counsel has informed the Court that the next date of hearing before the trial Court is 24.11.2023 when some more prosecution witnesses have been summoned.

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

5. The petitioner has been in custody for a considerable period of time. As not disputed by the learned State counsel, no injury much less fatal has been attributed to the petitioner in the crime in question, coupled with the fact that he came to be nominated as an accused on the basis of a disclosure statement.

6. 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