

207 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-55789-2023

Decided on : 02.12.2023

Kulwinder Singh

..... Petitioner

Versus

State of Punjab

..... Respondent

CORAM : HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present : Ms. Riffi Birla, Advocate
for the petitioner.

Mr. Arun Luthra, DAG, Punjab
with SI Jugraj Singh.

Mr. Arshdeep, Advocate
for the complainant.

Manjari Nehru Kaul, J.(Oral)

1. Instant petition has been filed by the petitioner seeking concession of regular bail in case FIR No.137 dated 06.07.2022 under Sections 302, 323 and 34 IPC registered at Police Station Sadar Fazilka District Fazilka.

2. Learned counsel for the petitioner *inter alia* contends that a false and fabricated version has been brought forth in the FIR in question annexed as Annexure P-1, which is evident from the fact that while stepping into the witness box all the material witnesses including the complainant had been declared hostile as they had not supported the case of prosecution. Learned counsel in support has drawn the attention of this Court to the deposition of

the material witnesses, which have been annexed as Annexures P-2, P-3 and P-4. Learned counsel has further submitted that the petitioner has now been in custody since 07.07.2022 and as on date, only 4 prosecution witnesses have been examined. Hence, there is no likelihood of the trial concluding in the near future. It has also been submitted that identically placed co-accused Krishan Singh has since been extended the concession of bail by this Court vide order dated 20.10.2023 (Annexure P-6).

3. Per contra, learned State counsel assisted by counsel for the complainant while opposing the prayer made by the counsel opposite, on instructions has not been able to dispute that identically placed co-accused Krishan Singh has been enlarged on bail by this Court. It has also not been disputed by the State counsel that three material witnesses including the complainant had been declared hostile during trial. However, learned counsel appearing for the complainant has submitted that one of the fourth eye-witnesses, who also happens to be the mother of the petitioner while stepping into the witness box had categorically deposed against the petitioner and stated that he had inflicted an injury on her.

4. On a pointed query put to the learned counsel for the State as to whether any injury had been attributed to the petitioner on the person of the deceased Thakaro Bai, he on instructions has replied in the negative.

5. Heard learned counsel for the parties and perused the relevant material on record.

6. The petitioner has been in custody for almost 1½ years having been arrested on 07.07.2022. All the four material witnesses including the

complainant as well as the injured witness stand examined. Concededly, three out of these four witnesses have not supported the case of prosecution and have thus, been declared hostile. Furthermore, no doubt, injured Lallo Bai did support the case of prosecution, however, a perusal of the allegations levelled in the FIR reveals that the petitioner though has been attributed a lalkara and injuries but there are no categoric allegations against the petitioner of having inflicted any injury on the person of the deceased. Be that as it may, since 22 prosecution witnesses still remain to be examined the trial is unlikely to conclude in the near future.

7. In the facts and circumstances as enumerated hereinabove, this Court deems it fit to extend the concession of bail to the petitioner. Accordingly, the instant petition is allowed. The petitioner is admitted to bail to the satisfaction to the trial Court/Duty Magistrate concerned.

8. 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.

02.12.2023
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(MANJARI NEHRU KAUL)
JUDGE

Whether speaking/reasoned:
Whether reportable :

Yes/No
Yes/No