

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

CRM-M No.56256 of 2023
Date of decision: 16th November, 2023

Deepak

... Petitioner

Versus

State of Haryana

... Respondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present: Mr. Bhanu Udai, Advocates for the petitioner.

Mr. Ranvir S. Arya, Addl. 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.116 dated 15.03.2022 under Sections 307, 34, 120-B IPC and Section 25 of the Arms Act, 1959 registered at Police Station Murthal, District Sonipat. This is the second petition filed by the petitioner.

2. On a pointed query put to the learned counsel for the petitioner as to what was the material change in circumstances after withdrawal of the previous petition, wherein similar relief had been sought, on 28.08.2023, this Court has been apprised that both the material witnesses including injured complainant as well as his father, while stepping into the witness box as PW-2 and PW-3 had not supported the case of the prosecution, as a result of which both of them were declared hostile. In support, learned counsel has drawn the attention of this Court

to the deposition of both these material witnesses, which has been annexed as Annexure P-3 and P-4 with the petition. Learned counsel has, thus, submitted that in the facts and circumstances, the petitioner having been falsely implicated in the case in hand is clearly discernible. It has been further submitted that the trial is unlikely to conclude in the near future as prosecution evidence is still underway, and hence, the petitioner cannot be made to languish in custody.

3. Per contra, learned State counsel while opposing the prayer and submissions made by the counsel opposite, on instructions, has not been able to dispute that both the material witnesses including the injured witness failed to support the case of the prosecution, as a result of which they were declared hostile. However, he submits that the recovery of the weapon of offence was effected from the petitioner; the empties as well as the bullet which was recovered from the body of the injured matched with the weapon of offence, which left no manner of doubt of his involvement in the crime in question. It has also been submitted by the learned State counsel that the petitioner is a man of criminal antecedents as he is involved in three other cases of similar nature.

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 23.06.2022 and 7 prosecution witnesses still remain to be examined, hence the trial would take considerable time to conclude. In the facts and circumstances, as enumerated hereinabove, more so since the material witnesses have not

supported the case of the prosecution, further incarceration of the petitioner would serve no useful purpose. 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.

6. Needless to add here, in case the petitioner misuses the concession of bail, the State would be at liberty to approach this Court for cancellation of bail in the instant case.

(MANJARI NEHRU KAUL)
JUDGE

November 16, 2023

rps

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