

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

CRM-M-56448-2023
Date of decision: 16.11.2023

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Mr. Mohit Kapoor, Addl. A.G., Punjab.

MANJARI NEHRU KAUL, J. (ORAL)

The petitioner is seeking the concession of bail under Section 439 of the Cr.P.C. in case FIR No.0138 dated 25.11.2022 under Sections 379-B, 34 of the IPC (Section 411 IPC added later on) registered at Police Station Shimlapuri, District Ludhiana.

2. Learned counsel for the petitioner *inter alia* contends that the FIR in question was registered against unknown persons. He came to be nominated as an accused on the basis of a disclosure statement allegedly suffered by co-accused Harjot Singh, who stated that the petitioner was also one of the assailants accompanying all the accused, when they waylaid the complainant and his uncle on the fateful day, while they both were riding their motorcycle.

3. Learned counsel submits that the evidenciary value of the disclosure statement so suffered by co-accused Harjot Singh is of a weak nature and is clearly indicative of his false implication in the case in hand.

4. It has been further submitted that co-accused Harjot Singh on whose disclosure statement, the petitioner came to be nominated as an accused had since been extended the concession of bail by this Court vide

order dated 20.07.2023 and thus, on parity, he also deserves to be enlarged on bail. More so, since none of the 12 prosecution witnesses cited, has been examined till date.

5. Per contra, learned State counsel while opposing the prayer and submissions made by learned counsel for the petitioner has not disputed that the petitioner was not named in the FIR in question, however, he submits that the petitioner was one of the members of the gang, which not only waylaid the complainant and his uncle and deprived them of their belongings including cash but they were all armed with lethal weapons like '*Gandasa*' and '*Dah*' with which they tried to inflict injuries on the person of the uncle of the complainant.

6. Learned State counsel has further submitted that the petitioner cannot claim parity with co-accused Harjot Singh as he was not involved in any other criminal case whereas it is a matter of record that the petitioner is involved in a number of similar cases, which finds reflected in his custody certificate, which has been filed in the Court today.

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

8. In the facts and circumstances as enumerated hereinabove, coupled with the fact that the petitioner is involved in number of cases of similar nature, *prima-facie* he comes across as a habitual offender for which he does not deserve the concession of bail.

8. Dismissed.

9. Nothing contained herein above, shall be construed as an expression of opinion on the merits of the case.

16.11.2023

manoj

(MANJARI NEHRU KAUL)
JUDGE

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