

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

233

2023:PHHC:154294

CRM-M-59669-2023

Date of decision: December 4th, 2023

Bhavnes h

.....Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present: Mr. Ajay Pal Singh Rehan, Advocate
for the petitioner.

Mr. Sandeep Kumar, Deputy 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.232 dated 23.11.2022 under Sections 307, 452, 379, 148, 149 and 506 of the IPC (Section 397 of the IPC added later on) and Sections 25 and 27 of the Arms Act, 1959, registered at Police Station Mahilpur, District Hoshiarpur.

2. Learned counsel for the petitioner, *inter alia*, contends that as per the allegations levelled in the FIR, which has been reproduced in the body of the petition, seven young boys came on three different motorcycles and after assaulting the complainant and one other person with the weapons they were armed with, fled away after snatching mobiles phones of the complainant and one other person, who was at the shop at that relevant time. Learned counsel submits that the occurrence in question allegedly took place on 22.11.2022, however, one of the accused Pardeep Singh on being arrested, suffered a disclosure statement on 14.02.2023 annexed as Annexure P-1, wherein

though he named the other assailants, who were accompanying him at

the time of the occurrence in question, he did not make any mention of the petitioner. Two days later on 16.02.2023, co-accused Pardeep Singh yet again allegedly suffered a disclosure statement, wherein for the first time he nominated the petitioner and stated that he had forgotten to name him when he got the earlier disclosure statement recorded. Learned counsel has submitted that it is thus, evident that the petitioner is innocent, which stands further fortified from the fact that the petitioner has clean antecedents and is not involved in any other criminal case much less a case of similar nature. It has been further submitted that after the petitioner was arrested on 19.05.2023, only challan stands presented and till date, charges have not been framed, hence, there is no likelihood of the trial concluding in the near future, more so since 25 prosecution witnesses have been cited.

3. *Per contra*, learned State counsel while opposing the prayer and submissions made by the counsel opposite, has on instructions not disputed that co-accused Pardeep Singh while suffering his first disclosure statement on 14.02.2023, had not named the petitioner as being one of his accomplices and it was only in the subsequent disclosure statement that he, for the first time, nominated the petitioner as being one of the persons, who had accompanied him at the time of alleged occurrence. However, he submits that the petitioner was a part of the unlawful assembly and he along with co-accused had actively participated in the crime in question, which had also led to the complainant receiving injuries on his person. Learned State counsel has also submitted that though the petitioner is not involved in any other criminal case, however, there is an offence under Section 52-A of the

Prisons Act, which was lodged against the petitioner after he was arrested in the instant case.

4. On a pointed query put to the learned State counsel, he has however, not disputed that the injuries sustained on the head of the complainant, have not been attributed to the petitioner but to co-accused Pardeep Singh from whom a recovery of firearm was effected. Learned State counsel has also not controverted that the petitioner 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 19.05.2023 and after the challan was presented, there has been no progress in the trial as even charges have not been framed till date.

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

December 4th, 2023

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**(MANJARI NEHRU KAUL)
JUDGE**

Whether speaking/reasoned : Yes

Whether reportable : No