

Neutral Citation No.2023:PHHC:164911

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH
CRM-M-63416 of 2023 (O&M)
Date of decision : 21.12.2023

Amrit @ Poppan

...

.....Petitioner

vs.

State of Haryana

.....Respondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present: Mr. Varuna Singh, Advocate and
Ms. Manta Panwar, Advocate for the petitioner.

Mr. Rahul Mohan, Senior Deputy Advocate General,
Haryana, for the respondent/State

Mr. Kamal Deep Sehra, Advocate for the complainant

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MANJARI NEHRU KAUL, J. (ORAL)

This is second petition filed by the petitioner under Section 439 Cr.P.C., seeking grant of regular bail in case FIR No.368 dated 26.6.2022 under Sections 148, 149, 307, 341, 201, 34 of the Indian Penal Code, 1860 and Section 25/54/59 of Arms Act, registered at Police Station Ganaur, District Sonapat, as the previous one was dismissed as withdrawn vide order dated 25.7.2023.

2. Learned counsel for the petitioner inter alia contends that a perusal of the FIR which has been annexed as Annexure P-1, reveals that the only role attributed to the petitioner in the crime in question was that while riding his motorcycle, he alongwith the co-accused had raised a lalkara, pursuant to which it was the co-accused, who attacked the complainant and inflicted injuries on him, including a fire arm injury, which was declared to be dangerous to

life. It has also been submitted that the complainant had implicated, as many as, 13 persons in the crime in question, however, 9 out of those 13, were found to be innocent, which leaves no manner of doubt that a false version had been coined by the complainant while lodging the FIR in question. Learned counsel has further argued that while stepping into the witness box, the complainant made material improvement and deposed that it was the petitioner, who had fired upon the injured-complainant on his chest, which admittedly had not been alleged while lodging the FIR in question. Learned counsel submits that since all the material witnesses, including the injured-complainant, stand examined and 18 prosecution witnesses still remain to be examined, further incarceration of the petitioner would serve no useful purpose, as there can be no apprehension of the petitioner tampering with evidence or trying to influence the prosecution witnesses.

3. Per contra, learned State counsel, assisted by learned counsel for the complainant, while opposing the prayer and submissions made by the counsel opposite, has not disputed that in the initial version given, while lodging the FIR in question, the only role attributed to the petitioner was of raising a *lalkara*; and that out of the 13, 9 persons named in the FIR in question had been found to be innocent. However, it has been submitted that while stepping into the witness box, the complainant had not only supported the case of the prosecution in its entirety, but had specifically deposed that it was the petitioner who had fired at him on the fateful day. Learned State counsel has further submitted that recovery of the weapon of offence

has also been effected from the petitioner. Learned State counsel, on further instructions, has not controverted the submissions made by counsel for the petitioner that all the material witnesses stand examined and the next date fixed before the trial Court is 5.2.2024, when some more prosecution witnesses are likely to be examined.

4. On a pointed query put to the learned State counsel, as to whether the petitioner has any criminal antecedents, he on instructions, has replied in the negative.

5. I have heard learned counsel for the parties and perused the relevant material on record.

6. The petitioner has been in custody since 29.6.2022. All the material witnesses including the injured-complainant, stand examined. As not disputed by the learned State counsel the complainant improved upon the initial version given in the FIR with respect to the role attributed to the petitioner in the crime in question, however, be that, as it may, it would be a matter to be delved into during trial.

7. In the facts and circumstances, as enumerated hereinabove, this Court, without commenting on the merits of the case, deems it fit to extend the concession of bail to the petitioner. Accordingly, the instant petition is allowed and the petitioner is admitted to bail to the satisfaction of the trial Court/Duty Magistrate concerned.

(MANJARI NEHRU KAUL)
JUDGE

21.12.2023
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Whether speaking / reasoned
Whether reportable

Yes / No
Yes / No