

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

226

2024:PHHC:037020

CRM-M-2513-2024

Date of decision: March 14th, 2024

Warish

.....Petitioner

Versus

State of Haryana

.....Respondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present: Mr. A.P.S. Mann, Advocate
for the petitioner.

Mr. Rajesh Gaur, Additional Advocate General, Haryana.

Mr. Vishal Nehra, Advocate
for the complainant.

MANJARI NEHRU KAUL, J.

Petitioner is seeking the concession of bail under Section 439 of the Code of Criminal Procedure, 1973 in case FIR No.190 dated 26.11.2022 under Sections 147, 148, 149, 186, 307, 323, 332, 353, 395, 397, 452, 506 of the IPC and Section 25 of the Arms Act, 1959 (charges framed under Sections 147, 148, 149, 323, 325, 452, 506, 332, 353, 186, 307, 395, 397, 120-B of the IPC and Section 25 of the Arms Act, 1959) registered at Police Station Bahin, District Palwal.

2. Learned counsel for the petitioner, *inter alia*, contends that the false implication of the petitioner in the case at hand is evident from the fact that he was neither named in the FIR in question nor was he attributed any role in the alleged occurrence when the FIR was lodged; he came to be nominated as an accused on the basis of a supplementary statement made by a complainant later on. He submits that even in the supplementary statement, false allegations were levelled to the effect that the petitioner was present alongside as many as 94 other persons,

who attacked a polling booth with firearms, sticks and stones. Learned counsel has submitted that it is evidently a case, wherein the complainant has tried to involve as many people as possible and all this requires to be appreciated in the background that in such like occurrences, it could not have been humanly possible for the complainant to remember the injuries inflicted and role played by each of them. Learned counsel has submitted that even though the challan was presented way back on 23.02.2023 and charges framed on 19.05.2023, however, till date, none of the 59 prosecution witnesses had been examined. Hence, the possibility of the trial concluding in the near future looks remote. Learned counsel has also submitted that in view of the role attributed to the petitioner of having inflicted just a simple injury with a *lathi* on the opposite party, his further incarceration would serve no useful purpose.

3. *Per contra*, learned State counsel has placed on record the status report by way of affidavit of Deputy Superintendent of Police, Hathin, District Palwal. Learned State counsel has not disputed that it is a case of eyewitness account and the petitioner was not named in the FIR in question nor any role attributed to him. He, however, submits that a supplementary statement was made after the occurrence in question by the complainant, where he named the petitioner and also alleged that he had inflicted a *lathi* blow on one of the injured persons. It has also been submitted that pursuant to his arrest, a countrymade pistol along with a *danda* was recovered from him. Learned State counsel has, on instructions, not disputed the stage of the trial, and that none of the 59 witnesses have been examined till date. Learned State

counsel has also not disputed that the petitioner has clean antecedents and is not involved in any other criminal case.

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

5. The petitioner has been in custody for more than 1 year and 4 months having been arrested on 27.11.2022. The investigation in the case at hand is complete as charges also stand framed. The petitioner has been attributed a simple injury on the hand of one of the injured.

6. In the facts and circumstances as enumerated hereinabove, since the trial is unlikely to conclude in the near future, the instant petition is allowed. The petitioner be admitted to bail to the satisfaction of the trial Court/Duty Magistrate concerned. 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.

7. Needless to say, in case the petitioner misuses the concession of bail granted to him, the State would be at liberty to seek cancellation of the same.

March 14th, 2024
Puneet

(MANJARI NEHRU KAUL)
JUDGE

Whether speaking/reasoned : Yes
Whether reportable : No