

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

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CRM-M-2980-2024 (O&M)

Date of decision: 04.04.2024

Davinder Singh

.....Petitioner

Versus

The State of Haryana

.....Respondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present : Mr. Ramandeep Singh Gill, Advocate and
Mr. Jatin Bansal Kotshamir, Advocate
for the petitioner.

Mr. Rajesh Gaur, Addl. A.G., Haryana.

MANJARI NEHRU KAUL, J. (ORAL)

CRM-14075-2024

For the reasons mentioned in the application, the same is allowed and copy of statement of PW4 is taken on record as Annexure P-14 subject to all just exceptions.

CRM-M-2980-2024

1. The petitioner in the instant (second) petition is seeking the concession of bail under Section 439 of the Cr.P.C. in case FIR No.2 dated 02.01.2023 under Sections 148, 149, 307, 323, 324, 506 and 34 of the IPC registered at Police Station Shahabad, District Kurukshetra.

2. Learned counsel for the petitioner inter alia contends that the false implication of the petitioner in the instant case is evident from the fact that while stepping into the witness box both the material witnesses i.e. the complainant who was allegedly stabbed by the petitioner as well as PW Dharmender who too received stab injuries

during the occurrence in question, failed to identify the petitioner and support the case of the prosecution as a result of which they both were declared hostile. Learned counsel submits that since both the material witnesses stand examined and had not supported the case of the prosecution, further incarceration of the petitioner, who has been in custody for more than a year having been arrested on 23.02.2023, would serve no useful purpose.

3. Per contra, learned State counsel while opposing the prayer made by learned counsel for the petitioner, on instructions from ASI SI Subhash Chand, has drawn the attention of this Court to the allegations levelled in the FIR in question which has been annexed as Annexure P-1. He has submitted that the complainant had specifically named the petitioner as being one of the persons who inflicted knife injuries on the person of the complainant as well as injured witness Dharmender which find corroboration with the medical evidence on record also. However, learned State counsel on instructions has not been able to controvert that both these witnesses while stepping into the witness box had not supported the case of the prosecution and as a result of which had been declared hostile. Learned State counsel on further instructions has informed the Court that 18 prosecution witnesses remain to be examined and the next date fixed before the learned Trial Court is 10.04.2024.

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

5. Relevant portion of the FIR is reproduced hereinbelow for ready reference:-

“.....on dated 31/12/2022 at around 10.30/11 o'clock in the night, I and Dharmender S/o Sahab Singh, Gaurav Basatiya S/o Om Prakash, Ankush S/o Satish Kumar, resident of Village Rawa, Police Station Shahabad, District Kurukshetra were present at RUNWAY HOTEL on the occasion of new year party. We all four were dancing together on the DJ. At the same time, Devender Kumar S/o Ajit Singh resident of Mughal Majra, Police Station Shahabad, Sachin Wadhwa S/o Omprakash resident of Shahabad and Vikas S/o Tara Chand resident of Sabka Pasiyala, Police Station Saha, District Ambala, Rajat S/o Krishan Kant resident of Meerapur Colony resident of Shahabad and Krish S/o Amit Kumar resident of Pandit Tek Chand Wali Gali, Shahabad came there, who were all in drunken position. Which they started dancing with us on DJ. During the dancing, we had a fight with him because of changing the song on DJ. Devender Kumar S/o Ajit Singh stabbed me in the abdomen, under shoulder (bakhi) and on right finger with knife he was holding in his hand and Vikas S/o Tara Chand stabbed Dharmender S/o Sahab Singh on the stomach and nose with the knife which he was holding in his hand. Sachin S/o Om Prakash, Rajat S/o Krishan Kant, Krish S/o Amit Kumar also had a fight with all of us and thrashed us and ran away from the spot with threatening to kill us. After that, people arranged an ambulance for us and I and Dharmender Kumar to be admitted to Adesh Hospital for treatment.”

6. In the occurrence in question the complainant and one Dharmender were allegedly inflicted stab injuries by the petitioner, however, concededly during the examination of both these material witnesses, they not only failed to support the case of the prosecution but also did not identify the petitioner as being one of the assailants who had participated in the occurrence in question. In the facts and circumstances as enumerated hereinabove, further incarceration of the petitioner would serve no useful purpose as the trial is unlikely to conclude in the near future since 18 prosecution witnesses still remain to be examined. This Court, therefore, deems it fit to extend the concession of bail to the petitioner.

7. Accordingly, the instant petition is allowed. The petitioner be admitted to bail on his furnishing bail/surety bonds 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.

04.04.2024

(MANJARI NEHRU KAUL)
JUDGE

Vinay

Whether speaking/reasoned

:

Yes/No

Whether reportable

:

Yes/No