

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

242

CRM-M-3602-2024

Date of decision: 30.01.2024

Vishal Kumar @ Kali Billi

.....Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present : Mr. Amit Agnihotri, Advocate
for the petitioner.

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

MANJARI NEHRU KAUL, J. (ORAL)

1. The petitioner is seeking the concession of bail under Section 439 of the Cr.P.C. in case FIR No.244 dated 20.08.2022 under Sections 302, 148, 149, 160, 151 of the IPC registered at Police Station Sahnewal, District Ludhiana.

2. Learned counsel for the petitioner inter alia contends that he has been falsely implicated in the case in hand on the basis of suspicion that he along with other co-accused on 19.08.2022 at about 11:30 P.M. attacked the deceased and thereafter inflicted fatal injuries on his person. Learned counsel further submits that no doubt the petitioner was named in the FIR in question which was lodged by his father, however, a perusal of the contents of the FIR reveal that no specific role much less injury had been attributed to him and furthermore, it was evident that the complainant was not even present at the place of occurrence and whatever he had alleged in the FIR was merely a hearsay evidence and at variance with the statements under

Section 161 of the Cr.P.C. of the three eye witnesses, as also the injured witness. It has still further been submitted that after the petitioner was arrested on 19.08.2022, only 02 prosecution witnesses out of the 22 cited had been examined who too had not supported the version put forth by the complainant. Learned counsel submits that in the circumstances, his further incarceration would serve no useful purpose moreso when there was no likelihood of the trial concluding in the near future.

3. Per contra, learned State counsel while opposing the prayer and submissions made by the counsel opposite, on instructions, has submitted that the murder took place within the sight of the complainant. The petitioner is the main accused who along with the other accused attacked the deceased and inflicted fatal injuries upon him with his sword. Not only was the deceased attacked and injured but one other person Sham Sunder @ Kunal was also inflicted a serious head injury in the occurrence for which he was hospitalized. Learned State counsel on instructions has submitted that the complainant and Sham Sunder @ Kunal (stamped witness) have not yet been examined and hence, in the circumstances and looking to the gravity of the offences, the petitioner did not deserve the concession of bail.

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

5. A perusal of the allegations levelled in the FIR in question annexed as Annexure P-1 reveal that on the fateful day the deceased was celebrating his birthday in close vicinity to his house when his father i.e. the complainant received information that a quarrel had

broken out. When he reached the spot along with his other son, he saw the accused including the petitioner armed with lethal weapons like swords, iron datars, bricks etc. who were continuously attacking the deceased with their respective weapons. In the occurrence, all the accused including the petitioner also attacked another person Sham Sunder, who as already observed earlier, received serious head injuries. The complainant thereafter removed his son to the hospital, however, he died on way to PGI Chandigarh. The most material witnesses in the case in hand i.e. the complainant who is also the eye witness to the occurrence and PW Sham Sunder who received injuries in the occurrence in question have not yet been examined. Thus, in the facts and circumstances enumerated hereinabove and in particular keeping in mind the mode and manner in which the accused gave effect to the crime, this Court is not inclined to extend the concession of bail to the petitioner.

6. Accordingly, the instant petition is hereby dismissed.

7. 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.

30.01.2024

Vinay

(MANJARI NEHRU KAUL)
JUDGE

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