

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

241

2024:PHHC:020140
CRM-M-6408-2024
Date of decision: February 13, 2024

SURAJ KUMAR
...Petitioner

Versus

STATE OF PUNJAB
...Respondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present: Mr. Malkiat Singh, Advocate
for the petitioner.

Mr. Amit Rana, Senior Deputy Advocate General, Punjab.

MANJARI NEHRU KAUL, J. (ORAL)

1. The instant petition has been filed under Section 439 of the Code of Criminal Procedure, 1973 for grant of regular bail to the petitioner in case FIR No.82 dated 01.04.2021 (Annexure P-1/T) under Sections 302, 506, 120-B of the Indian Penal Code, 1860 and Sections 25 and 27 of the Arms Act, 1959, registered at Police Station Sadar Amritsar, District Amritsar.
2. Learned counsel for the petitioner *inter alia* contends that the false implication of the petitioner in the crime in question is discernible from the fact that even though the occurrence in question took place in broad daylight, however, neither was the petitioner named in the FIR in question annexed as Annexure P-1/T nor was any suspicion raised therein *qua* his involvement in the murder of one Lata. It has been submitted by the learned counsel that the petitioner came to be arrayed as an accused on a supplementary statement made by the complainant under Section 161 of the Cr.P.C. after 11 days of the alleged occurrence and even therein, the only role attributed to him was of accompanying the prime accused-Sunny Gill, who allegedly fired a single shot

upon the person of the deceased. Learned counsel has submitted that a perusal of not only the FIR but also the statement recorded under Section 161 Cr.P.C. of the complainant reveals that there was no other role, passive or active, attributed to the petitioner in the crime in question. Learned counsel has also submitted that even as per the postmortem report of the deceased, he had suffered only a single firearm injury, which proved to be fatal for him and which admittedly, had not been attributed to the petitioner.

3. Learned counsel, in the aforementioned facts and circumstances, has prayed for enlarging the petitioner on bail as all the material witnesses in the case in hand stand examined; 22 prosecution witnesses however still remain to be examined and hence, further incarceration of the petitioner would serve no useful purpose. Learned counsel has also brought to the notice of this Court that identically placed co-accused Manjit Singh @ Mani Mota had since been extended the concession of bail by this Court vide order dated 20.01.2024.

4. *Per contra*, while opposing the prayer and submissions made by the learned counsel for the petitioner, learned State counsel, on instructions, has not disputed that the petitioner had not been attributed any injury, much less even *lalkara* in the crime in question. It has also not been disputed that even as per the postmortem report of the deceased, he had sustained only a single injury on his person, which proved to be fatal for him. However, he submits that the petitioner was one of the four unidentified persons, who had accompanied the co-accused at the time of the alleged occurrence. Learned State counsel has placed on record the custody certificate of the petitioner, wherein it stands reflected that he is involved in some other criminal cases under various offences of the Cr.P.C.

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

6. The sole material witness i.e. the complainant, on whose supplementary statement the petitioner came to be nominated as an accused, already stands examined. As not disputed by the learned State counsel, on instructions, other than the presence of the petitioner being shown at the place of occurrence, no role, much less any injury or even *lalkara*, has been attributed to him. The pendency of other criminal cases against the petitioner would not come in his way of being enlarged on bail, particularly in view of the role attributed to him in the crime in question.

7. In the facts and circumstances as enumerated hereinabove, this Court thus, deems it fit to extend the concession of regular bail to the petitioner. The petition as such is allowed; the petitioner be admitted to bail to the satisfaction of the trial Court/Duty Magistrate.

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.

9. Needless to add here, in case the petitioner is found misusing the concession of bail, the State would be at liberty to approach this Court to seek cancellation of bail to him.

February 13, 2024
Jaspreet Kaur

(MANJARI NEHRU KAUL)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No