

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

224

CRM-M-9340-2024 (O&M)
Date of decision: 24.04.2024

Gurshinderjit Singh @ Gurshinder SinghPetitioner

Versus

State of PunjabRespondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present : Ms. Anupam Bhanot, Advocate
for the petitioner.

Mr. Amit Rana, Sr. DAG, Punjab.

Mr. Abhishek Khullar, Advocate and
Mr. Atinder Pal Singh, Advocate
for PW-Palwinder Singh.

MANJARI NEHRU KAUL, J. (ORAL)

CRM-15312-2024

For the reasons mentioned in the application, the same is allowed and translated copy of Panchayat Nama dated 18.03.2024 is taken on record as Annexure P-4, subject to all just exceptions.

CRM-M-9340-2024

1. The petitioner is seeking the concession of bail under Section 439 of the Cr.P.C. in case FIR No.145 dated 09.12.2018 under Sections 302, 201 and 120B of the IPC and Sections 25, 27 and 30 f the Arms Act, 1959 registered at Police Station Dera Baba Nanak, Batala, District Gurdaspur.

2. Learned counsel for the petitioner submits that it is a case resting on circumstantial evidence; as per the motive spelt out while registering the FIR in question (Annexure P-1), the complainant (father

of the deceased) had alleged that her husband i.e. the petitioner had been subjecting his wife i.e. the deceased to physical and mental harassment on account of his illicit relations with some other woman. Learned counsel submits that the complainant while stepping into the witness box had not supported the case of the prosecution as a result of which he was declared hostile. It has been asserted by learned counsel that in a case resting on circumstantial evidence, motive plays a prominent role, however, once the complainant who spelt out the motive, had resiled, further incarceration of the petitioner would serve no useful purpose coupled with the fact that in the circumstances, the entire foundation of the case of the prosecution stands demolished. She has further submitted that the petitioner has been in custody since 31.09.2023 and the key witness in the instant case i.e. the complainant, already stands examined, hence, his further incarceration would serve no useful purpose as there could be no apprehension of the petitioner intimidating or influencing the witnesses.

3. Learned State counsel assisted by learned counsel appearing for a witness-Palwinder Singh in the case in hand, has vehemently opposed the prayer and submissions made by the counsel opposite. It has been submitted that no doubt the complainant had been declared hostile during trial, however, PW Palwinder Singh who was immediate neighbour of the deceased as well as the petitioner, heard gun shot which was fired at the deceased; this witness was being continuously threatened with dire consequences by the petitioner to depose in his favour in which regard an FIR No.81 dated 11.07.2022 had also been registered against the petitioner. Learned counsel for the

witness-Palwinder Singh submits that since he is the key witness and coupled with the fact that he is being continuously threatened by the petitioner even from inside the jail, the petitioner be not enlarged on bail. It has also been submitted that the petitioner has not approached this Court with clean hands as the factum of another criminal case registered against him has been withheld from this Court.

4. Learned State counsel has further submitted that in fact the deceased had been hurriedly cremated after being shot at by the petitioner. No doubt, the complainant had resiled from statement given at the time of the registration of the FIR, but it was for reasons but obvious since he was a close relative of both the deceased as well as the petitioner. Learned State counsel has not disputed that an FIR has indeed been registered against the petitioner and other members of the petitioner's family for extending threats to PW Palwinder Singh but even after the registration of the present FIR, there has been another occurrence, wherein the accused party had fired towards the hospital being run by PW Palwinder Singh.

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

6. In the facts and circumstances as enumerated hereinabove, this Court is not inclined to extend the concession of bail to the petitioner at this stage, moreso when one of the key witnesses PW Palwinder Singh, immediate neighbour, of the petitioner had not been examined yet and was being threatened to depose in his favour.

7. Accordingly, the instant petition is hereby dismissed.

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.

24.04.2024

(MANJARI NEHRU KAUL)
JUDGE

Vinay

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