

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

225

2024:PHHC:034012
CRM-M-11384-2024
Date of decision: March 11th, 2024

Rakesh
.....Petitioner
Versus
State of Haryana
.....Respondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

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

Mr. Rajesh Gaur, Additional Advocate General, Haryana.

MANJARI NEHRU KAUL, J. (ORAL)

This is a second petition filed by the petitioner seeking the concession of regular bail under Section 439 of the Code of Criminal Procedure, 1973 in case FIR No.595 dated 06.10.2022 under Sections 148, 149, 216, 302, 323, 452, 506 of the Indian Penal Code, 1860 and Sections 25, 27 and 30 of the Arms Act, 1959, registered at Police Station Tehsil Camp, Panipat.

2. Learned counsel for the petitioner, *inter alia*, contends that a perusal of the allegations levelled in the FIR, which has been annexed as Annexure P-1, clearly reveal that though the petitioner has been named and his presence shown along with the co-accused, however, no specific injury has been attributed to him much less the fatal injuries. He submits that the fatal injuries were allegedly inflicted by co-accused Parveen and Sadhu from the firearms, which they were carrying at the time of the alleged occurrence. It has been further submitted that vague allegations have been levelled against the petitioner of having inflicted brick bats on the person of the deceased. However, a perusal of the

post-mortem report, which has been annexed as Annexure P-2, does not corroborate the allegations levelled in the FIR in question. Learned counsel has submitted that the petitioner has now been in custody since 17.11.2022 and after the charges were framed on 22.11.2023, none of the 40 prosecution witnesses had been examined till date. Learned counsel submits that in the circumstances since the investigation in the case at hand is complete, further incarceration of the petitioner would serve no useful purpose as the trial would take considerable time to conclude.

3. *Per contra*, learned State counsel while opposing the prayer and submissions made by the counsel opposite, has not disputed the submissions made by the learned counsel for the petitioner that fatal injuries had not been attributed to the petitioner; it has also not been disputed that none of the 40 prosecution witnesses have been examined till date. However, learned State counsel, on instructions from Inspector Surender Dahiya, submits that the petitioner participated in the alleged occurrence by throwing brick bats at the complainant party including the deceased.

4. On a pointed query put to the learned State counsel, he on instructions, has not disputed that the post-mortem report, did not reveal any blunt injuries much less with brick bats on the person of the deceased. On a further query put to the learned State counsel as to whether the petitioner has any criminal antecedents, he on instructions, has replied in the negative.

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

6. The petitioner has been in custody since 17.11.2022. The trial is unlikely to conclude in the near future as none of the 40 prosecution witnesses cited by the prosecution has been examined so far. The petitioner has not been attributed fatal injuries on the person of the deceased.

7. In the facts and circumstances as enumerated hereinabove, 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.

March 11th, 2024
Puneet

(MANJARI NEHRU KAUL)
JUDGE

Whether speaking/reasoned : Yes
Whether reportable : No