

**IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH**

203

2024:PHHC:008083

CRM-M-16903-2023

Date of decision: January 20th, 2024

Manjit Singh @ Mani Mota

.....Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

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

Mr. Mohit Kapoor, Additional Advocate General, Punjab.

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.82 dated 01.04.2021 under Sections 302, 506, 120-B of the Indian Penal Code, 1860 and Section 25/27 of the Arms Act, registered at Police Station Sadar Amritsar.

2. Custody certificate of the petitioner has been filed in Court, which is taken on record subject to just exceptions.

3. Learned counsel for the petitioner, *inter alia*, contends that the occurrence in question took place on 01.04.2021 in broad daylight when the deceased was fired at by co-accused Sunny Gill with his pistol. Learned counsel while drawing the attention of this Court to the FIR, which has been annexed as Annexure P-1, argued that firstly the petitioner was not named in the FIR in question much less any suspicion raised therein qua his involvement in the crime; secondly, the petitioner was not even in any manner related or linked to the co-accused, who was alleged to be having strained relations with the complainant party

so as to conspire with the other co-accused to participate in the alleged occurrence; thirdly, though it was an eyewitness account, however, it was after 11 days of the alleged occurrence, the petitioner came to be nominated as an accused in the supplementary statement recorded by the complainant, wherein it was alleged that he was one of the four unidentified persons, who were accompanying the accused at the time of the alleged occurrence and at the relevant time, was armed with a *kirch*. Learned counsel submits that a perusal of the FIR reveals that even otherwise, the unidentified persons, who were present at the time of occurrence had not been attributed any role much less a *lalkara* or even as per the allegations levelled, they were not armed with any weapon. Hence, it was evident that a totally false and embroidered version had been brought forth by the police against the petitioner. Learned counsel has further argued that even as per the post-mortem report of the deceased only, a solitary bullet had been fired, which proved fatal for her and other than the single firearm injury, no other injury much less with any sharp weapon was found on her person. Learned counsel has prayed for being extended the concession of bail to the petitioner in the aforementioned facts and circumstances as now he has been in custody since 23.04.2021 and till date, eight prosecution witnesses including the eyewitness/complainant already stand examined. Hence, in the circumstances, his further incarceration would serve no useful purpose.

4. *Per contra*, learned State counsel while opposing the prayer and submissions made by the counsel opposite has, on instructions, not disputed that petitioner was not named in the FIR in question nor was any suspicion raised qua his involvement in the crime. It has also not

been disputed that the deceased had died of a firearm injury and other than that, no other injury was found on her person. Learned State counsel, on further instructions, has also not disputed that the petitioner is neither a relative of the complainant party or even residing in the same neighbourhood. However, he has submitted that the petitioner's role came to light when the complainant made supplementary statement under Section 161 of the Cr.P.C. on 11.04.2021 and named the petitioner as being one of the four unidentified persons, who had accompanied the co-accused at the time of the commission of the crime.

5. On a pointed query put to the learned counsel as to whether any role had been attributed to the petitioner in the crime in question, he on instruction, has replied in the negative and just submitted that he had been challaned as he was a part of the unlawful assembly. Learned State counsel, however, has while placing the custody certificate of the petitioner on record, informed the Court that he is a man of antecedents, which is evident from the number of cases that he is involved in.

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

7. The sole material witness i.e. the complainant, on whose statement under Section 161 of the Cr.P.C., the petitioner was nominated as an accused, stands examined. 24 prosecution witnesses, however, are yet to be examined. As conceded by the learned State counsel as well, other than the presence of the petitioner being shown at the time of the alleged occurrence, no role much less any injury or even *lalkara* has been attributed to him. Mere pendency of a number of criminal cases would not come in the way of the petitioner being granted the

concession of bail in this case, particularly in the facts and circumstances as well as the role attributed to him in the instant crime.

8. Accordingly, 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.

9. Needless to say, in case the petitioner misuses the concession of bail granted to him, the State would be at liberty to seek cancellation of the same.

January 20th, 2024
Puneet

(MANJARI NEHRU KAUL)
JUDGE

Whether speaking/reasoned : Yes
Whether reportable : No