

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

238

2024:PHHC:059296
CRM-M-20072-2024
Date of decision: April 30, 2024

SACHIN @ CHEENU
...Petitioner
Versus
STATE OF HARYANA
...Respondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present: Mr. Raja Sharma, Advocate
and Mr. Kamal Sharma, Advocate
for the petitioner.

Ms. Deepshikha Chauhan, Assistant Advocate General, Haryana.

MANJARI NEHRU KAUL, J. (ORAL)

1. The instant petition has been filed under Section 439 Cr.P.C. for grant of regular bail to the petitioner in case FIR No.0884 dated 06.10.2022 (Annexure P-1) under Sections 148, 149, 302, 323 of the Indian Penal Code, 1860 and Sections 25, 54 and 59 of the Arms Act, 1959, registered at Police Station Chandni Bagh, District Panipat.
2. Learned counsel for the petitioner *inter alia* contends that it is a case based on eye-witness account; the FIR in question was registered by the uncle of the deceased, who allegedly saw 4-5 boys inflicting knife blows on the person of the deceased and on the person of the injured witness-Manish. Learned counsel, while drawing the attention of this Court to the deposition of PW2-the complainant and PW3-Manish (injured witness), has submitted that no doubt the petitioner is shown to have been present at the time of the occurrence in question, however, there is no allegation, much less by way of whisper, against the petitioner of having inflicted any injury, much less fatal, on the person of the deceased or for that matter, even on the person of the injured-

PW3. Rather, the only role attributed to the petitioner is of a *lalkara* asking the

co-accused to attack the deceased and his friend i.e. PW-3. Learned counsel submits that since both the material witnesses i.e. the complainant and the stamped witness already stand examined, further incarceration of the petitioner, who is not involved in any other criminal case, would serve no useful purpose, moreso as 20 prosecution witnesses still remain to be examined.

3. *Per contra*, learned State counsel, while opposing the prayer and submissions made by the counsel opposite, has submitted that no doubt, there is no specific attribution of any injury to the petitioner in the crime in question, however, he was an active participant in the alleged crime; he raised a *lalkara* and instigated the co-accused to attack the deceased. It was on account of the injuries which the deceased received at the hands of the co-accused that he met with his end. Learned State counsel, on instructions, has however not disputed that in the present case, there are only 2 material witnesses i.e. the complainant and the stamped witness, and they already stand examined. The stage of the trial has also not been disputed by the learned State counsel, on instructions, and also the factum of the petitioner having clean antecedents, which is further evident from the custody certificate of the petitioner, which has been placed on record by the learned State counsel in the Court today.

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

5. The petitioner has been in custody since 10.10.2022 and the likelihood of the trial concluding in the near future does not seem probable as only 3 prosecution witnesses out of the 23 cited, have been examined till date. Since the material witnesses already stand examined, there could also be no apprehension of the petitioner intimidating or influencing the remaining witnesses.

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

April 30, 2024
Jaspreet Kaur

(MANJARI NEHRU KAUL)
JUDGE

Whether speaking/reasoned

:

Yes/No

Whether reportable

:

Yes/No