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**231 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CRM-M-22110-2024 (O&M)
Decided on : 16.07.2024

Sham Sunder @ Kunal

..... Petitioner

Versus

State of Punjab

..... Respondent

CORAM : HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present : Mr. Naveen Bawa, Advocate
for the petitioner.

Mr. Amit Rana, Sr. DAG, Punjab

Manjari Nehru Kaul, J.(Oral)

CRM-27598-2024

Application is allowed as prayed for and document
(Annexure P-9) is taken on record subject to all just exceptions.

Main case

1. Instant petition has been filed by the petitioner seeking concession of regular bail in case FIR No.244 dated 20.08.2022 under Sections 302, 148, 149, 160, 151 IPC (Section 307 IPC added later on) registered at Police Station Sahnewal District Ludhiana.
2. Learned counsel for the petitioner, at the outset, has drawn the attention of this Court to the deposition of PW-2 Vijay Kumar, at whose instance the FIR in question (Annexure P-1) was lodged. Learned counsel has submitted that the petitioner being



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falsely implicated in the present case, is evident from the fact that PW-1 Rajesh Kumar and PW-2 Vijay Kumar did not support the case of the prosecution, as a result of which, they were declared hostile. It has further been asserted by the learned counsel that since it was alleged to be an eyewitness account and material witnesses i.e. complainant and an eyewitness had not supported the case of the prosecution, further incarceration of the petitioner, in the circumstances, would serve no useful purpose as 21 prosecution witnesses still remained to be examined. Therefore, in the circumstances, the possibility of the trial concluding in the near future was unlikely.

3. Per contra, learned State counsel while opposing the prayer made by learned counsel for the petitioner, on instructions ASI Ram Murty, has not been able to dispute that the complainant had been declared hostile during trial. However, State counsel has reiterated the allegations levelled against the petitioner by the complainant while lodging the FIR in question. Learned State counsel has further submitted that two other eyewitnesses were yet to be examined.

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

5. The petitioner has been in custody since 19.12.2022. The complainant while stepping into the witness box as PW-2 as well as PW-1 Rajesh Kumar, alleged eyewitness, did not support the case of prosecution and were declared hostile during trial.



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6. In the facts and circumstances as enumerated hereinabove, this Court deems it fit to extend the concession of regular bail to the petitioner. Accordingly, the instant petition is allowed. The petitioner be admitted to bail on his furnishing bail/surety bonds to the satisfaction of the Trial Court/Duty Magistrate concerned.

7. 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.

16.07.2024
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(MANJARI NEHRU KAUL)
JUDGE

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