



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

243

CRM-M-22941-2024

Date of decision: May 13th, 2024

Sahil Sharma @ Bobby

.....Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present: Mr. Amit Dhawan, Advocate
for the petitioner.

Mr. Amit Rana, Senior Deputy 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.165 dated 20.07.2021 under Sections 307, 34 of the Indian Penal Code, 1860 and Section 25 of Arms Act, 1959 (Section 302 of the IPC added later on) registered at Police Station Division No.8, District Jalandhar.

2. Learned counsel for the petitioner submits that the petitioner has been in custody for almost three years having been arrested on 22.07.2021. While drawing the attention of this Court to the allegations levelled in the FIR, which has been annexed as Annexure P-1, learned counsel has submitted that the occurrence in question took place at 9:15 PM on 19.07.2021 when the deceased was allegedly gunned down by three persons, who came inside his shop, demanding cigarettes. Learned counsel submits that after gunning down the deceased, all the three assailants allegedly fled away on two separate motorcycles, which

were parked outside. Learned counsel submits that the petitioner came to be nominated in a disclosure statement allegedly suffered by co-accused Raman, who had fired the fatal shots on the deceased. Learned counsel submits that as per the disclosure statement, the petitioner was standing outside on a motorcycle and had facilitated the escape of the co-accused from the place of occurrence. Learned counsel has submitted that though it is a case of false implication as even in the CCTV footage, the petitioner is not visible, however, even assuming for the sake of arguments, though not conceded, that the co-accused had fled from the spot on a motorcycle driven by the petitioner, he had not been attributed any injury much less fatal on the person of the deceased. Learned counsel has submitted that as on date, only four witnesses out of the 28 cited by the prosecution stand examined, which also includes the complainant; the complainant while stepping into the witness box had not even by way of a whisper alleged that the three assailants, who had gunned down his deceased brother, had fled on a motorcycle after committing the crime.

3. On a pointed query put to the learned counsel as to whether the petitioner has any criminal antecedents, he has replied in the negative.

4. *Per contra*, learned State counsel, while opposing the prayer and submissions made by counsel opposite, on instructions from ASI Jagir Singh, has not disputed that the petitioner has not been attributed any injury much less fatal on the person of the deceased. It has also not been disputed that the petitioner did not enter the shop of the deceased along with co-accused, however, learned State counsel has submitted that after committing the murder, the three accused including

the prime accused Raman, on whose disclosure statement the petitioner was arraigned as an accused, had fled away on the motorcycle driven by none other than the petitioner. Learned State counsel has still further submitted that no doubt, the petitioner is not visible in the CCTV footage, which was retrieved from the place of occurrence, however, the registration number of the motorcycle was visible and it was in the name of the mother of the petitioner. Learned State counsel has not disputed that the petitioner has clean antecedents and is not involved in any other criminal case. Learned State counsel has also not disputed the stage of trial and has still further submitted that the next date fixed before the trial Court is 06.06.2024 when some more witnesses are likely to be examined.

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

6. In the facts and circumstances as enumerated hereinabove, this Court deems it fit to extend the concession of bail to the petitioner, who has now been in custody since 22.07.2021 as 24 prosecution witnesses still remain to be examined and the most material witness i.e. the complainant already stands examined. The instant petition is allowed. The petitioner be admitted to bail 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.

May 13th, 2024
Puneet

(MANJARI NEHRU KAUL)
JUDGE

Whether speaking/reasoned : Yes
Whether reportable : No