

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

105+212

2024:PHHC:032227

CRM-10598-2024 in/and

CRM-M-23812-2023

Date of decision: March 6th, 2024

Shivraj Singh @ Raja

.....Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present: Mr. Parampreet Singh Paul, Advocate
for the applicant-petitioner.

Mr. Navdeep Singh, Deputy Advocate General, Punjab.

MANJARI NEHRU KAUL, J. (ORAL)

CRM-10598-2024

Prayer in this application is for placing on record
statements of PW-1, PW-2 and PW-5 as Annexure P-8 to P-10.

Application is allowed subject to just exceptions.

Annexure P-8 to P-10 are taken on record.

CRM-M-23812-2023

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.277 dated 05.12.2019 under Sections
302, 120-B of the Indian Penal Code, 1860 and Sections 25, 27 of the
Arms Act, 1959 registered at Police Station Sadar Kharar,
District S.A.S. Nagar.

2. Learned counsel for the petitioner, *inter alia*, contends that
the petitioner has been in custody since 30.12.2019 for having
accompanied the co-accused, who fired fatal shots on the person of
deceased-Sarabjit Kaur. Learned counsel has submitted that the

petitioner was neither named in the FIR in question, which has been annexed as Annexure P-1, nor any suspicion raised qua his involvement in the crime in question; he came to be nominated as an accused after he allegedly suffered an extra judicial confession before PW-5 Sewak Singh. Learned counsel has drawn the attention of this Court to the deposition of PW-5 Sewak Singh and submitted that the said witness, while stepping into the witnesses box, had not supported the case of the prosecution, as a result of which he was declared hostile. Learned counsel submits that in the circumstances, it is evident that the petitioner has been falsely implicated in the instant case. It has also been submitted that the complainant also had not supported the case of the prosecution, as a result of which he was declared hostile. Learned counsel has still further submitted that since all the material witnesses including the witness of extra judicial confession, on the basis of whose statement the petitioner was arraigned as an accused in the instant case, stand examined, his further incarceration would serve no useful purpose as 22 witnesses out of the 27 cited by the prosecution still remain to be examined. It has also been submitted that the petitioner has clean antecedents as he is not involved in any other criminal case much less a case of similar nature.

3. *Per contra*, learned State counsel while opposing the prayer and submissions made by the counsel opposite, has not been able to controvert that the petitioner came to be nominated as an accused on the basis of an extra judicial confession made by the petitioner before one Sewak Singh, however, concededly, said PW Sewak Singh had been declared hostile.

4. On a pointed query, learned State counsel has also not been able to dispute that other than the extra judicial confession allegedly made by the petitioner, no other evidence had come to the fore to link the petitioner with the crime in question. Learned State counsel, on instructions, has not disputed that all the material witnesses stand examined and 22 witnesses still remain to be examined.

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

6. In the facts and circumstances as enumerated hereinabove, since all the material witnesses qua the petitioner stands examined and concededly, the most material witness of extra judicial confession has turned turtle, further incarceration of the petitioner would serve no useful purpose as the trial would take considerable time to conclude.

7. 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.

March 6th, 2024
Puneet

(MANJARI NEHRU KAUL)
JUDGE

Whether speaking/reasoned : Yes
Whether reportable : No