

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

231

CRM-M-25934-2023 (O&M)

Date of decision: 16.01.2024

Mohd. Haroon @ Haroon @ Harun @ MullaPetitioner

Versus

State of HaryanaRespondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present : Mr. Rajesh Lamba, Advocate
for the petitioner.

Ms. Trishanjali Sharma, DAG, Haryana.

Mr. Akshay Jindal, Advocate and
Mr. Vijayveer Singh, Advocate
for the complainant.

MANJARI NEHRU KAUL, J. (ORAL)

1. This is the third petition filed by the petitioner seeking the concession of regular bail under Section 439 of the Cr.P.C. in case FIR No.484 dated 14.09.2019 under Sections 148, 149, 323, 302, 307, 506, 120-B of the IPC and Section 25 of the Arms Act, 1959 (Sections 325, 201, 212 of the IPC added lateron) registered at Police Station Sadar Tauru, District Nuh.

2. On a pointed query put to the learned counsel for the petitioner as to what was the material change in circumstances subsequent to the withdrawal of the previous petition wherein similar relief had been sought as recently as on 20.04.2023, he has submitted that the previous petition had been withdrawn with liberty to approach the Trial Court.

3. Learned counsel for the petitioner has inter alia submitted that after the petitioner was arrested on 17.03.2020, the trial had been moving at a very slow pace and there was no likelihood of the trial concluding in the near future since as many as 54 prosecution witnesses had been cited. It has also been contended by the learned counsel that one of the witnesses despite being summoned by the Trial Court had not been appearing to get his evidence recorded which left no manner of doubt that he was intentionally avoiding appearing before the Trial Court, and was thus trying to delay the trial. Learned counsel has further submitted that since the complainant, who was alleged to be an eye witness to the occurrence, already stands examined, further incarceration of the petitioner in the circumstances, would serve no useful purpose as there could be no possibility of the petitioner trying to tamper with evidence much less trying to influence the witnesses to depose in his favour.

4. Per contra, learned State counsel assisted by learned counsel for the complainant while opposing the prayer and submissions made by the counsel opposite, has submitted that there has been no material change in circumstances after the withdrawal of the previous petition on 20.04.2023. Learned counsel have drawn the attention of this Court to the allegations levelled in the FIR and have submitted that a perusal of the allegations levelled leave no manner of doubt that it was a premediated attack carried out by the petitioner and all the accused who came to the house of the deceased armed with firearms; on reaching the house of the deceased they launched an unprovoked attack on not only the deceased but his family members also which fact in turn

finds due corroboration with the medical evidence on record. It has also been submitted that in the occurrence in question as many as 03 persons besides the deceased, received firearm injuries and only the complainant had been examined till date whereas the stamped witnesses were yet to be examined.

5. On a pointed query put to the learned State counsel as to whether the complainant had supported the case of the prosecution, she on instructions, has replied in the affirmative and submitted that the complainant was also stamped witness and had fully corroborated the case of the prosecution.

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

7. Prima facie it comes across as being a premediated attack carried out by the petitioner and the other accused who landed at the house of the deceased with lethal weapons including firearms. It is a case based on ocular testimony. The presence of the complainant prima facie cannot be doubted since he is a stamped witness and as per learned State counsel had corroborated the prosecution version during trial. The other stamped witnesses have not yet been examined. Furthermore, mere long custody of the petitioner cannot be a ground to extend the concession of bail to him particularly in light of the manner in which the crime in question was allegedly committed. Thus, in the facts and circumstances as enumerated hereinabove, the petitioner does not deserve to be extended the concession of bail.

8. Accordingly, The instant petition is hereby dismissed.

9. 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.

16.01.2024

(MANJARI NEHRU KAUL)
JUDGE

Vinay

Whether speaking/reasoned

:

Yes/No

Whether reportable

:

Yes/No