



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

CRM-M No.27136 of 2023
Date of decision: 13th May, 2024

Swaran Singh

... Petitioner

Versus

State of Punjab

... Respondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present: Ms. Riffi Birla, Advocate for the petitioner.

Mr. Navdeep Singh, Dy. Advocate General, Punjab
for the respondent/State.

Mr. Arshdeep, Advocate
for the stamped witness/injured – Lalo Bai.

MANJARI NEHRU KAUL, J. (ORAL)

1. The petitioner is seeking the concession of bail under Section 439 Cr.P.C. in case FIR No.137 dated 06.07.2022 under Sections 302, 323, 34 of the IPC registered at Police Station Sadar Fazilka, District Fazilka.

2. Learned counsel for the petitioner inter alia contends that he has been in custody since 06.07.2022 for allegedly inflicting fist blows on the person of the deceased. While drawing the attention of this Court to the allegations levelled in the FIR, which has been annexed as Annexure P-1, she has submitted that though as per the case of the prosecution, the petitioner was armed with a stick, however, even as per the allegations levelled the said stick had not been used by him



for inflicting injuries either on the deceased or even on the stamped witness. It has, still further, been submitted by the learned counsel that after three prosecution witnesses had been examined an application under Section 319 Cr.P.C. moved by the prosecution was allowed by the learned trial Court, as a result of which now a de-novo trial had commenced in the instant case. A prayer has therefore been made that in the circumstances, the petitioner could not be made to languish in custody, as his further incarceration would serve no useful purpose.

3. Per contra, learned State counsel assisted by learned counsel for the complainant, while opposing the prayer and submissions made by the counsel opposite, on instructions from ASI Gurmej Singh, has not been able to dispute that the petitioner has been attributed only fist blows on the person of the deceased and there are no allegations levelled in the FIR in question qua the petitioner having inflicted any injury either on the deceased or even the stamped witness. Learned State counsel has also not disputed that co-accused Neelam has now been summoned as an additional accused under Section 319 Cr.P.C. and therefore, a de-novo trial has commenced.

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

5. The petitioner has now been in custody since 06.07.2022; he has been attributed only fist blows on the person of the deceased and



no other injury on any of the witnesses. The trial would take considerable time to conclude, as prosecution has cited 24 witnesses; co-accused Neelam has now been summoned as an additional accused under Section 319 Cr.P.C. and hence, a de-novo trial has commenced. In the facts and circumstances, as enumerated hereinabove, this Court thus deems it fit to extend the concession of bail to the petitioner. The petition as such is allowed and the petitioner is 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.

6. Needless to add here, in case the petitioner misuses the concession of bail, the State would be at liberty to approach this Court for cancellation of bail in the instant case.

(MANJARI NEHRU KAUL)
JUDGE

May 13, 2024
rps

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