



IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

219

CRM-M-29086-2024

Date of decision: September 9th, 2024

Jaswinder Singh @ Shinder Baba

.....Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present: Mr. Harsh Vasu Gupta and Mr. V.P.S. Mitthewal, Advocates
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.277 dated 05.12.2019 under Sections 302, 120B of the Indian Penal Code, 1860 and Sections 25 and 27 of the Arms Act, 1959 registered at Police Station Kharar, District S.A.S. Nagar.

2. Learned counsel for the petitioner submits that the petitioner was neither named in the FIR in question, which has been annexed as Annexure P-1 nor was any suspicion raised qua his involvement in the present case. It has been argued by the learned counsel that the petitioner came to be nominated as an accused on the basis of a supplementary statement recorded by complainant-Raj Kumar, wherein he stated that he had learnt from his own sources that the petitioner had conspired with co-accused Harwinder Singh Sandhu (since declared a proclaimed offender), alleged paramour of the deceased. Learned counsel has submitted that while stepping into the witness box, not only did the

complainant PW-1 Raj Kumar but even other material witness PW-6 Gulshan Kumar, who had stated before the police that it was the petitioner, who had come in car No.DL04 CAF 4908, fired at the deceased and thereafter, fled away, had been declared hostile during trial. In support, attention of this Court has been drawn to Annexures P-3 and P-4, which are the depositions of both, PW-1 complainant Raj Kumar and PW-6 Gulshan Kumar, alleged eyewitness to the occurrence in question. Learned counsel has submitted that the petitioner has now been in custody since 21.12.2019, however, 20 prosecution witnesses still remain to be examined, hence, further incarceration of the petitioner, who otherwise has no criminal antecedents, would serve no useful purpose.

3. *Per contra*, learned State counsel while opposing the prayer and submissions made by counsel opposite, on instructions, has not disputed that all the material witnesses stand examined, which also include PW-1 Raj Kumar, complainant and PW-6 Gulshan Kumar, alleged eyewitness and both these two material witnesses had been declared hostile during trial. However, it has been submitted that the weapon of offence belonged to the petitioner, which was a licenced firearm and was also recovered pursuant to disclosure statement made by the petitioner himself when he was arrested on 21.12.2019. Learned State counsel has submitted that although the motive to commit the alleged crime lay with co-accused Harwinder Singh Sandhu, however, the present petitioner had been hired by co-accused Harwinder Singh Sandhu to carry out the murder in question. Learned State counsel has still further submitted that the next date fixed before the trial Court is 09.10.2024 when some more prosecution

witnesses have been summoned. Custody certificate of the petitioner has also been placed on record, wherein also it stands reflected that he has is not involved in any other criminal case.

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

5. The petitioner is in custody since 21.12.2019. The recording of prosecution evidence is still underway; all the material witnesses including the complainant and an alleged eyewitness however, already stand examined and as already observed in the earlier part of this order, did not support the case of the prosecution, as a result of which they were declared hostile.

6. In the facts and circumstances as enumerated hereinabove, the trial is unlikely to conclude in the near future, 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.

7. Needless to say, in case the petitioner misuses the concession of bail granted to him, the State would be at liberty to seek cancellation of the same.

September 9th, 2024
Puneet

(MANJARI NEHRU KAUL)
JUDGE

Whether speaking/reasoned : Yes
Whether reportable : No