



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

CRM-M No.31316 of 2024
Date of decision: 9th August, 2024

Haidar Bhatti

... Petitioner

Versus

State of Punjab

... Respondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present: Ms. Navneet Kaur Waraich, Advocate for the petitioner.

Mr. Amit Rana, Sr. Dy. Advocate General, Punjab
for the respondent/State.

MANJARI NEHRU KAUL, J. (ORAL)

1. The petitioner is seeking the concession of bail under Section 439 Cr.P.C. in case FIR No.2 dated 04.01.2023 under Sections 302, 34 of the IPC and Sections 25, 27 of the Arms Act, 1959 registered at Police Station Gate Hakima, District Amritsar.

2. Learned counsel submits that the petitioner's false implication in the present case is evident from the fact that after the occurrence in question, wherein Rahul (deceased) was allegedly gunned down by co-accused Mayank, the Investigating Agency had found the petitioner innocent, although subsequently he too was challaned. Learned counsel has further drawn the attention of this Court to the deposition of the complainant, who stepped into the witness box as PW-1, as well as that of PW-2 Kiran, mother of the deceased, which



have been annexed as Annexure P-2 and P-3 respectively. She submits that both these material witnesses, who allegedly witnessed the occurrence in question had resiled and not supported the case of the prosecution, as a result of which they both were declared hostile. It has still further, been submitted that even as per the allegations levelled in the FIR, which has been annexed as Annexure P-1, the fatal injury has not been attributed to the petitioner, and the only role attributed to him was of beating up the deceased. Learned counsel, thus submits that in the aforementioned facts and circumstances, since it is a case based on the eye-witness account and all the material witnesses including the complainant, who allegedly witnessed the occurrence in question, did not support the case of the prosecution, further incarceration of the petitioner would serve no useful purpose, as 17 prosecution witnesses still remain to be examined.

3. Per contra, learned State counsel while opposing the prayer and submissions made by the counsel opposite, has drawn the attention of this Court to the allegations levelled in the FIR which stands reproduced hereunder:

“Statement of Sawan s/o Rakesh Kumar @ Sonu resident of H. No. 1505, Street Kakia Vali Katda Bogia Amritsar, aged about 19 years, Mobile No. 9465873112. Stated that I am the resident of abovesaid address and is doing catering work with my cousin (Massi's son) and my cousin brother-in-law -Rahul s/o Ved Parkash resident of



H. No.133, Shakti Nagar, Beria Vali Market, Inside Lahori Gate Amritsar also did catering work with us and for this business of catering, we made a godown for keeping the things in the Flat No. HR-149 in Amar Avenue Baherwar Gate Hakeema and when I and Rahul went to the godown in Amar Avenue on 03.01.2023 at 08:30 and when we come out from the godown by taking some things and that time Mahinder Bhatti and his son's Mayank (Anni) and Haidar Bhatti came forward to us who reside in front of our flat. They started abusing to Rahul and also told to him that they already stop you to come here in the Mohalla but you again come and then Mahinder Bhatti, Mayank (Anni) and Haider Bhatti started beating to Rahul. They gave blow on the face of Rahul but when Rahul protested it then Mayank took out gun from his dub and fired on Rahul from front side and Rahul laid down on the earth by the gunshot. I ran away from the spot in fear. I informed about it to Mrs. Kiran mother of deceased Rahul and brother and then we all come again to the spot. When we saw Rahul on the earth, we took him and reached Civil Hospital where doctor checked him and declared him dead and I have stated all this which we seen what Mahender Singh Bhatti, Mayank Singh and Hairdar Bhatti beaten him up and Mayank (Anni) fired at him and shot him. Kindly do legal proceedings and I got recorded my statement in front of the mother of deceased Rahul.”

4. Learned State counsel submits that the petitioner was specifically named in the FIR in question, although not attributed any



fatal injury. However, he has not been able to dispute, on instructions, that all the material witnesses including the complainant stand examined and had been declared hostile during trial. Stage of the trial has also not been disputed by the learned State counsel.

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

6. The petitioner has now been in custody since 04.01.2023 and possibility of the trial concluding in the near future looks bleak as 17 prosecution witnesses still remain to be examined. In addition to this, both the material witnesses including the complainant already stand examined and both have been declared hostile during trial. 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.

(MANJARI NEHRU KAUL)
JUDGE

August 9, 2024
rps

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