



IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

106+234

CRM-M-31389-2024 (O&M)

Date of decision: 05.12.2024

Sukhwinder Singh @ Cheta

.....Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present : Mr. Vinod Ghai, Sr. Advocate with
Mr. Arnav Ghai, Advocate and
Ms. Kashish Sahni, Advocate
for the petitioner.

Mr. Amit Rana, Sr. DAG, Punjab and
Ms. Gunjan Mehta, Addl. A.G., Punjab.

MANJARI NEHRU KAUL, J. (ORAL)

1. The petitioner is seeking the concession of bail under Section 439 of the Cr.P.C. in case FIR No.0238 dated 23.11.2023 under Sections 302, 307, 332, 333, 353, 186, 148, 149, 120-B of the IPC and Sections 25, 27 of the Arms Act, 1959 (Section 201 of the IPC added lateron) registered at Police Station Sultanpur Lodhi, District Kapurthala.

2. Learned senior counsel for the petitioner contends that the alleged occurrence took place on 23.11.2023 when co-accused Baba Man Singh along with 35-40 unknown/unidentified persons indulged in indiscriminate firing at a congregation inside Gurudwara Akal Bugga Sahib Lodhi. Learned senior counsel has asserted that after the alleged occurrence all the five accused, who had been named were arrested and



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they then suffered disclosure statements; in none of the disclosure statements made by the arrested co-accused, did the name of the petitioner surface. Learned senior counsel has asserted that in the disclosure statements suffered by the co-accused as well as in the statements recorded under Section 161 of the Cr.P.c. by some of the witnesses, the names of some other accused surfaced, who were then arrested by the police. It has been submitted that strangely on 02.12.2023, after about nine days of the alleged occurrence, a statement under Section 161 of the Cr.P.C. was made by ASI Harbhajan Singh, who claimed that the petitioner was one of the unidentified persons, who was accompanying the other accused at the time of the alleged occurrence; the petitioner was armed with a .315 bore rifle which he handed over to co-accused and thereafter picked up a *kappa* which was lying at the spot with which he inflicted injuries upon him. Learned senior counsel has asserted that the statement made under Section 161 of the Cr.P.C. by ASI Harbhajan Singh on whose statement the petitioner has been nominated as an accused in the present case, is not supported by any material, much less any medical evidence as admittedly ASI Harbhajan Singh despite being allegedly inflicted injuries with a *kappa* by the petitioner, did not get himself medically examined. Learned senior counsel has, therefore, submitted in the aforementioned facts and circumstances, that the false implication of the petitioner can certainly be discerned. It has been further argued by the learned senior counsel that investigation in the present case is complete as challan already stands presented, however, the learned



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Trial Court has been repeatedly adjourning the case for framing of charges. It has also been submitted that since as many as 51 prosecution witnesses have been cited by the prosecution, there is no likelihood that the trial would be concluding in the foreseeable future.

3. Per contra, learned State counsel while opposing the prayer made by learned counsel for the petitioner, on instructions from Inspector Hargurdev Singh, has not disputed the custody period of the petitioner, who has now been in custody since 21.12.2023 nor has it been disputed that investigation in the present case is complete and challan stands presented. Learned State counsel, on further instructions, has also not disputed that the petitioner was neither named in the FIR in question nor did his role in the alleged occurrence come to light in any of the disclosure statements made by the co-accused or even in the statements made by the alleged eye witnesses under Section 161 of the Cr.P.C. However, learned State counsel has submitted that on 02.12.2023, ASI Harbhajan Singh had made a statement under Section 161 of the Cr.P.C. wherein he had categorically alleged that the petitioner was present along with the other co-accused at the time of the alleged occurrence and after handing over his firearm to the co-accused, had picked up a *kappa* from the spot and thereafter inflicted injuries on the arms and legs of ASI Harbhajan Singh.

4. On a pointed query put to the learned State counsel as to whether ASI Harbhajan Singh was medically examined with respect to the injuries sustained at the hands of the petitioner, learned State counsel, on instructions, has replied in the negative.



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5. It has still further been urged by the learned State counsel on instructions that although the petitioner's name admittedly did not surface prior to 02.12.2023, however, the petitioner was driver of main accused Aman Nihang's vehicle.

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

7. In the facts and circumstances as enumerated hereinabove, since investigation in the present case is complete and challan also stands presented against the petitioner, this Court deems it fit to extend the concession of bail to the petitioner.

8. Accordingly, the instant petition is allowed. The petitioner be admitted to bail on his furnishing bail/surety bonds 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.

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

10. Pending applications, if any, stand disposed of.

05.12.2024

Vinay

(MANJARI NEHRU KAUL)
JUDGE

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