



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

CRM-M No.31597 of 2024

Date of decision: 21st October, 2024

Vineymar Bains @ Banu @ Vinamr Bains

... Petitioner

Versus

State of Punjab

... Respondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present: Mr. Bikramjit S. Randhawa, 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.03 dated 09.01.2024 under Sections 394 of the IPC (Section 379-B IPC added later on) registered at Police Station Nangal, District Rupnagar.

2. Learned counsel for the petitioner submits that the petitioner has been in custody since 10.01.2024 in a case of false implication, which finds due credence from the fact that while stepping into the witness box as PW-5, the complainant Mahesh Kumar did not support the case of the prosecution, as a result of which he was declared hostile. It has been asserted by the learned counsel for the petitioner that as per the allegations levelled in the FIR, it was only the complainant who had been assaulted by two unknown assailants, and furthermore, there was

no other person inside the room where the alleged occurrence took place. Learned counsel further submits that the complainant was the only material witness in the present case and who, as already submitted earlier, failed to identify the petitioner as being one of the two assailants. Learned counsel submits that in the circumstances, further incarceration of the petitioner would serve no useful purpose as there can be now no apprehension of the petitioner tampering with the evidence or intimidating any of the witnesses. On a pointed query put to the learned counsel, he has submitted that the petitioner has no previous criminal antecedents.

3. Per contra, learned State counsel while opposing the prayer and submissions made by the counsel opposite, on instructions from ASI Manjit Singh, has not disputed the custody period of the petitioner; it has also not been disputed on instructions that the complainant, while stepping into the witness box as PW-5, had not identified the petitioner as being the person who had participated in the crime in question, and as a result of which he was declared hostile. However, it has been submitted by the learned State counsel, on instructions, that the prosecution evidence stands recorded and thus, there is every likelihood that the trial would not take much time to conclude. On further query, learned State counsel, on instructions, has submitted that an application under Section 311 of the Cr.P.C. has been moved by the prosecution for adducing the FSL report, which is due to come up for hearing on 05.11.2024.

4. I have heard learned counsel for the parties and perused the relevant material on record including the FIR in question, which has been reproduced herein below:

*“Copy of repat, statement of complainant Mahesh Kumar son of Jokhu Lal resident of Saket Colony, Muzafar Nagar, Police Station Civil Lines, District Muzafar Nagar (UP) at present residing on rent of Satish Pardhan, Shiwalik Avenue, Naya Nangal, Police Station, Nangal, District Rupnagar. stated that I am resident of above mention address and working as a selling clothes in the village. On 8.1.2024, I came back to my quarter in Shiwalik Avenue after making rounds in the village. After prayer to God I was cooking meal for mine. It was at about 4.20 PM, two hair shorn boys aged about 20-22 years came in his room. One of the boy was having a garden spade (Gainti) without handle in his hand. They asked him for water and he served the same. After that said boys demanded money from him, but I refused to give money to them, on which one of the boy grappled me and other boy started hitting on my head with garden spade (Gainti), due to which my head was injured and I smeared with blood. I fell down and raised hue and cry. Both the said boys were calling each other with the names of Soda and **Banu**. One Boy said that **Banu** check the bag and **Banu** checked my bag. My purse was in the bag. In which Rs. 18,000/-, Aadhaar Card and ATM card of SBI were snatched from my bag and They left behind the iron garden spade (Gainti) in my room. After that some passersby gathered there and they got admitted me in Civil Hospital, Nangal, for treatment. Aforesaid Soda and **Banu** gave beatings to me and snatched my money, Aadhaar Card and ATM, so Tke the legal action against*

them. Statement was recorded same was read, heard and correct.”

5. As not disputed by the learned State counsel, on instructions, the sole material witness in the present case, i.e. the complainant already stands examined and did not support the case of the prosecution, as a result of which he was declared hostile. Possibility of the trial concluding in the near future seems remote, as an application under Section 311 Cr.P.C. has been filed by the prosecution which is still pending adjudication. Learned State counsel, on further instructions, has not controverted the submissions made by the counsel opposite qua the petitioner having no previous criminal antecedents.

6. 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.

7. 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

October 21, 2024
rps

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