



IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

221

CRM-M-32093-2024

Date of decision: 19.09.2024

Golu Kumar

.....Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present : Mr. Mohd. Yousaf, Advocate for the petitioner.

Mr. Amit Rana, Sr. DAG, 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.2 dated 06.01.2023 under Sections 346 of the IPC (Sections 302, 34 of the IPC added lateron) registered at Police Station Anaj Mandi Patiala District Patiala.

2. Learned counsel for the petitioner submits that the instant case hinges on circumstantial evidence; while getting the FIR in question registered, the complainant i.e. PW-3 Laddi Singh, had not suspected the involvement of any person, much less the petitioner. Learned counsel has submitted that subsequently a supplementary statement was allegedly made by nephew of the deceased, PW-8, Sunny Singh, who spelt out the motive against the petitioner to commit the crime in question, which was a history of strained relations between them, on account of some previous litigation. Learned counsel has argued that the false implication of the petitioner in the instant crime is evident from the fact that while stepping into the witness box, PW-8

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Sunny Singh, who had allegedly spelt out the motive qua the petitioner to commit the crime in question, had not supported the case of the prosecution as a result of which he was declared hostile. Learned counsel has submitted that although the complainant had not been specifically declared hostile, however, his deposition which has been annexed as Annexure P-1, reveals that the said witness had improved upon his earlier version by deposing that it was the petitioner who had driven the deceased along with the co-accused and after consuming liquor had inflicted fatal injuries on his person. Learned counsel has submitted that the said deposition cannot be accepted since it is totally contrary to the initial statement made by PW-3 while getting his statement recorded under Section 154 of the Cr.P.C. Learned counsel has also specifically drawn the attention of this Court to the cross examination of PW-3 wherein he had categorically admitted that he had not seen the accused committing the murder of his brother which was yet again at complete variance with the deposition made during his examination in chief. Learned counsel has, thus, submitted that in the circumstances as enumerated hereinabove coupled with the fact that all the material witnesses, including the witness, who allegedly spelt out the motive to commit the crime had not only been examined but declared hostile, further incarceration of the petitioner would serve no useful purpose as 14 prosecution witnesses still remained to be examined.

3. Per contra, learned State counsel while opposing the prayer made by learned counsel for the petitioner, on instructions from ASI



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Malkit Singh, has not been able to dispute the stage of the trial and the custody period of the petitioner. It has also not been disputed on instructions that PW-8 Sunny Singh, who spelt out the motive to commit the crime in question, had not supported the case of the prosecution as a result of which he was declared hostile.

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

5. The instant case hinges on circumstantial evidence; motive which plays a significant role in cases resting on circumstantial evidence, was spelt out by PW-8, who however, resiled during trial. The trial is unlikely to conclude in the near future as only 10 prosecution witnesses out of the 24 cited, have been examined. In the facts and circumstances as enumerated hereinabove, this Court deems it fit to extend the concession of bail to the petitioner.

6. 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.

7. 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.

19.09.2024

(MANJARI NEHRU KAUL)

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JUDGE

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