



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

CRM-M No.33585 of 2024

Date of decision: 22nd October, 2024

Sunny @ Bobby @ Sunny Kumar

... Petitioner

Versus

State of Haryana

... Respondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present: Mr. Akashdeep Singh, Advocate for the petitioner.

Mr. Gagandeep S. Chhina, Asst. Advocate General, Haryana
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.281 dated 08.08.2023 under Sections 302, 34 of the IPC and Sections 25, 27 of the Arms Act, 1959 registered at Police Station Rohtak Sadar, District Rohtak (challan under Section 302, 34, 120-B, 195-A, 201 IPC and 25, 27 of the Arms Act, 1959).

2. Learned counsel for the petitioner submits that the petitioner has been in custody since 11.08.2023 in a case based on eye-witness account. While drawing the attention of this Court to the allegations levelled in the FIR, it has been submitted that the petitioner was not named therein nor any suspicion raised qua his involvement in the alleged murder of Mohit (hereinafter referred to as, 'the deceased').

Learned counsel has further submitted that after registration of the FIR in question, supplementary statement was got recorded by the complainant, wherein also the petitioner was neither named nor any suspicion raised qua his involvement in the alleged crime; furthermore, the CCTV footage retrieved from the place of occurrence also did not reveal the presence of the petitioner at the time of the alleged occurrence. Learned counsel has submitted that the petitioner was nominated as an accused pursuant to a disclosure statement made by co-accused Pankaj, who stated that the weapon of offence had been provided to the co-accused Sombir by the petitioner. Learned counsel has submitted that in the aforementioned facts and circumstances, more so, when even no motive has been attributed to the petitioner to participate in the occurrence in question, his further incarceration would serve no useful purpose, as none of the 43 witnesses cited by the prosecution have been examined till date.

3. Per contra, learned State counsel while vehemently opposing the prayer and submissions made by the counsel opposite, on instructions, has not disputed the custody period of the petitioner and the stage of trial; learned State counsel, on instructions, has also not disputed the submissions of the counsel opposite that the name of the petitioner surfaced in the disclosure statement of one of the co-accused wherein also the only allegation levelled against him is of having provided the weapon of offence. However, learned State counsel has submitted that the co-accused, who gunned down the deceased, had a

motive to eliminate him, since two days later, the deceased was to depose in a criminal trial wherein the co-accused were facing trial for the murder of his father. On a pointed query, learned State counsel has conceded, on instructions, that the motive has not been attributed to the petitioner.

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

“To SHO Sahib Police Station Sadar Rohtak Sir, the request is that I Kuldeep S/O Mahendra, resident of village Chamariya Pana Thoi district Rohtak and I drive my own cruiser and we are two brothers. All three sisters are married. That today my nephew Mohit son of Bhup Singh, village Chamariyan, aged about 26 years, who has been working in the army for about 3 years. Mohit, who had come about 10 days ago to spend a month's leave, was took his nephew Jashan on his motorcycle No. HR-14P-3673 Royal Enfield color black, from his home to SM School Chamariya today at around 8:15 AM. After leaving his nephew Jashan, he was returning home. When reached in front of the small gate of the government school, Sandeep S/O Ramniwas Village Chamariya, now residing at Gaurad District Sonipat along with his two other companions came on a black motorcycle and killed my nephew Mohit by shooting him on his head and killed him. He along with his associates fled from the spot along with the motorcycle. Sandeep had earlier also killed my brother Bhoop S/O Mahendra Singh and my uncle's son Manjeet S/O Satbir. Due to this rivalry, today he shot dead my nephew and I am

also in danger from him. Strictest action should be taken against Sandeep S/O Ram niwas and his associates and I have got written this complaint after narrating from Devendra S/O Mahendra village Chamariyaan and presented it to you.”

5. The petitioner has now been in custody since 11.08.2023. He has not been attributed any injury, much less fatal, on the person of the deceased, nor was he alleged to be present along with the co-accused at the time of the occurrence in question. Possibility of the trial concluding in the near future seems unlikely as none of the 43 prosecution witnesses have been examined yet and are likely to be examined only on the next date of hearing fixed before the trial Court i.e. 13.01.2025. 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

October 22, 2024
rps

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