

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

215

2024:PHHC:012240

CRM-M-34986-2023 (O&M)

Date of decision: January 30th, 2024

Joni

.....Petitioner

Versus

State of Haryana

.....Respondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present: Mr. Satish K. Birla, Advocate
for the petitioner.

Ms. Trishanjali Sharma, Deputy Advocate General,
Haryana.

MANJARI NEHRU KAUL, J. (ORAL)

Petitioner is seeking the concession of bail under Section 439 of the Code of Criminal Procedure, 1973 in case FIR No.193 dated 18.04.2022 under Sections 395, 397, 120-B of the IPC registered at Police Station Gurugram Sadar, District Gurugram.

2. Learned counsel for the petitioner, *inter alia*, contends that the petitioner has been in custody since 27.04.2022 and there is no likelihood of the trial concluding in the near future as only six witnesses out of the 57 cited by the prosecution have been examined till date. It has further been submitted that all the material witnesses stand examined, who while stepping into the witness box, had failed to identify the petitioner, which in turn, left no manner of doubt that the petitioner was innocent and had been falsely implicated in the case in hand. In support, learned counsel has drawn the attention of this Court to the depositions of the witnesses, which have been annexed as Annexure P-4.

3. Learned State counsel while opposing the prayer and submissions made by the counsel opposite, on instructions from S.I. Arjun Singh, has not been able to dispute that all the material witnesses in the case in hand stand examined; all these material witnesses had not been able to identify the petitioner during trial, out of which two prosecution witnesses i.e. Vipin Lohia and Ranjeet Kumar were declared hostile. However, learned State counsel submits that the petitioner had also played an active role in the crime in question as it was he, who had unloaded the money from the cash van and then transported into the vehicle of the accused. It has further been submitted by the learned State counsel that the petitioner's name surfaced during investigation and in the disclosure statement made by co-accused, who had been identified by the prosecution witnesses during trial. Learned State counsel has submitted that though the petitioner is not involved in any other criminal case, however, he along with the co-accused, at gunpoint, had looted cash which was being carried in a cash van, after throwing chilly powder into the eyes of the driver and co-passangers, who were present in the cash van at the relevant time.

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

5. As not disputed, all the material witnesses stand examined and not even one out of those witnesses, who were present at the time of the alleged occurrence, identified the petitioner during trial, though they did identify the other co-accused. The petitioner is not stated to be involved in any other criminal case. The trial is unlikely to conclude in the near future. Hence, in the circumstances and in the light of his

non-identification by the witnesses, his further incarceration would serve no useful purpose.

6. In the facts and circumstances as enumerated hereinabove, the instant petition is allowed. The petitioner be admitted to bail 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 say, in case the petitioner misuses the concession of bail granted to him, the State would be at liberty to seek cancellation of the same.

January 30th, 2024

Puneet

(MANJARI NEHRU KAUL)
JUDGE

Whether speaking/reasoned : Yes

Whether reportable : No