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

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Decided on : 09.08.2024

Lakhvir Singh @ Lakha Petitioner

Versus

State of Punjab Respondent

CORAM : HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present : Mr. Mayank Mathur, Advocate
for the petitioner.

Mr. Shiva Khurmi, AAG, Punjab.

Manjari Nehru Kaul, J.(Oral)

1. This is the second petition filed by the petitioner under Section 483 BNSS r/w Section 439 Cr.PC seeking concession of regular bail in case FIR No.53 dated 07.07.2022 under Sections 364-A, 473, 411, 379 and 34 IPC and Section 25 of Arms Act registered at Police Station Kheri Gandian District Patiala.

2. On a pointed query put to the learned counsel for the petitioner as to what is the material change in circumstances after the previous petition wherein similar relief had been sought, was dismissed on 07.02.2024, learned counsel has drawn the attention of this Court to the depositions of all the three material witnesses that is victim (who was allegedly kidnapped by the petitioner) his elder brother, who was present with the victim and Naib Singh,



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complainant (who was allegedly standing close to the place of occurrence), he has submitted that all of them had failed to identify the petitioner during trial; the complainant was declared hostile during trial. Learned counsel for the petitioner further submits that in the aforementioned facts and circumstances, since the petitioner had neither been identified by the complainant nor by the elder brother of the victim or by the victim, who perhaps could have been the best witness to spell out the role of the petitioner in the crime in question, further incarceration of the petitioner, who has now been in custody for more than 2 years since 08.07.2022, would serve no useful purpose as 20 prosecution witnesses still remain to be examined.

3. Per contra, learned State counsel while opposing the prayer made by learned counsel for the petitioner, on instructions from ASI Jasbhinder Singh, has not been able to dispute that all the material witnesses cited by the prosecution stood examined and none of them had identified the petitioner during trial; the complainant had been declared hostile by the prosecution. It has also not been disputed that as many as 20 prosecution witnesses still remain to be examined and the next date of hearing is 21.08.2024.

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

5. It would be apposite to reproduce the contents of the FIR in question, which are as under:



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“Stated that I am resident of above mentioned address and do agriculture work. Today I alongwith Harminder Singh aforesaid and Jatinder Singh son of Kartar Singh were talking with each other in front of the house of our village Harminder Singh son of Garib Singh then our village's Charanjit Singh @ Laddi son of Karam Singh's both sons elder Jaskaran Singh and younger Harshpreet Singh who had worn school uniform were going to their Adharshila School village Bhadak on their cycle then soon. after some time it would be around 7.30 AM that elder son of Charanjit Singh came running to us and told that two Mona young men who came on without number motorcycle who by forcibly picking up his younger brother Harshpreet Singh forcibly and by making him to sit on their motorcycle have taken away him motorcycle towards village Bhadak. Then we all three by running followed them but in the meantime they drove away the motorcycle from there. Then people's gathering collected there and in the meantime child's father Charanjit Singh also came to us at the spot. Soon thereafter the call of abductors came on the phone of Charanjit Singh who demanded a ransom of Rupees 3 lacs from Charanjit Singh and also threatened him that if the amount is not paid today up to 2 hrs then they would kill his son: I alongwith Harminder Singh and Jatinder Singh aforesaid were going to police station to report the matter that you have met us at the chowk of village Kheri Gandian and statement is recorded to you and read over and heard and found correct. Sd/- Naib Singh”



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6. As not disputed by the learned State counsel, the petitioner had not been identified by all the material witnesses i.e. complainant, elder brother of the victim and victim himself. The petitioner has been in custody since 08.07.2022 and trial would take considerable time to conclude as 20 prosecution witnesses still remain to be examined.
7. In the facts and circumstances as enumerated hereinabove, this Court deems it fit to extend the concession of regular bail to the petitioner. 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.
8. 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.

09.08.2024
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(MANJARI NEHRU KAUL)
JUDGE

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