



IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

228

CRM-M-36499-2024
Date of decision: August 28th, 2024

Sunny Gill
.....Petitioner

Versus

State of Punjab
.....Respondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present: Mr. Akhilesh Vyas, Advocate
for the petitioner.

Mr. Amit Rana, Senior Deputy Advocate General, Punjab.

MANJARI NEHRU KAUL, J. (ORAL)

This is a second petition filed by the petitioner seeking the concession of regular bail under Section 439 of the Code of Criminal Procedure, 1973 in case FIR No.82 dated 01.04.2021 under Sections 302, 506, 148, 149 of the Indian Penal Code, 1860 and Sections 25, 27 of the Arms Act, 1959, registered at Police Station Sadar Amritsar.

2. On a pointed query put to the learned counsel as to what is the material change in circumstances after the withdrawal of the previous petition on 26.02.2024, wherein a similar relief had been sought, it has been submitted that the complainant, who allegedly witnessed the occurrence in question had been examined and had been declared hostile. Learned counsel in support has drawn the attention of this Court to the deposition of the complainant, which has been annexed as Annexure P-2, wherein the factum of the complainant having been declared hostile stands clearly reflected. It has been argued by the learned counsel that in the aforementioned facts and circumstances, the petitioner's false implication in the present case is clearly evident and hence, he deserves

to be extended the concession of bail. It has also been submitted that since only 11 prosecution witnesses, which includes the most material witness i.e. the complainant already stand examined before the trial Court, his further incarceration would serve no useful purpose as 22 prosecution witnesses still remain to be examined.

3. *Per contra*, learned State counsel while opposing the prayer and submissions made by counsel opposite, on instructions from ASI Jaspal Singh, has not been able to dispute that the complainant, who allegedly witnessed the crime in question and is the son of deceased Lata, while stepping into the witness box as PW-1, had not supported the case of the prosecution as a result of which he had been declared hostile. Learned State counsel, however, has submitted that in the FIR in question, there was specific allegations levelled against the petitioner of having fired with a pistol towards the stomach of the deceased, which proved fatal for her. It has also been submitted by the learned State counsel that no doubt, the complainant was indeed declared hostile, however, when he initially stepped into the witness box to depose, he had supported the case of the prosecution and it was only subsequently that he had taken a U-turn. The stage and status of the trial has also not been disputed by the learned State counsel, who on instructions, has submitted that the next date of hearing before the trial Court is 31.08.2024.

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

5. Before proceeding further, it would be apposite to reproduce the FIR, which is as under:-

“Statement of Parhlad Kumar alias Pappal son of Sh. Parmod Kumar resident of street No. 3, Sandhu Colony near Mohan Property Dealer, Batala Road, Amritsar aged about 30 years, mobile No. 62046- 07821, stated that I am resident of above noted address, we are three brothers and sisters. Elder sister Payal is married, I am younger to her, youngest brother is Sunny alias Talli aged about 26 years. We both brothers are unmarried. My mother Lata and father Parmod Kumar are aged and works at home. About 5 months ago, a small quarrel was occurred between my younger brother Sunny alias Talli with a resident of our street namely Sunny Gill son of Mohinder Singh, resident of house No. 818, Street No. 3, Sandhu Colony, Batala Road Amritsar. Sunny Gill was saying that my brother Sunny alias Talli has molested his wife Sandhya. This matter was compromised with the intervention of respectable persons that both the parties will reside peacefully at their respective houses. Kaur mother of Sunny Gill has complained me that your brother Sunny aliss Taili is harassing our soin Sunny Gill and I told her that we both brothers do not want to quarrel. Today on 01.04.2021 at about 12/01 (noon) when I was present in the Hall Bazar regarding my personal work, then my father made me phone call that Prahlad come soon at house. neighbour Sunny Gil along with his family and unknown boys armed with weapons is roaming here, due to which I came back to my home. I was in the street at some distance back from the our house then Sunny Gill has started firing in air with his pistol and on hearing the noise of firing, my mother Lata, father Parmod Kumar and my brother Sunny alias Talla also came out in the street saw that Sunny Gall armed with pistol, and Labh Singh maternal uncle of Sunny, Sonu Gill sons of Mohinder Singh armed with Dangs, Gora son of Labh Singh armed with Kirpan (sword), Sandhya wife of Sunny Gill and Labh Singh's mother Surinder Kaur residents of Sandhu Colonu, Sonu alias Kakkri, Sagar residents of Indza Colony, Majitha Read Amritsar and 3-4 unknown persons were standing there.

While looking us, Surinder Kaur wife of Mohinder Singh and Sandhya wife of Sunny Gill have raised Lalkara that catch them, they will not be left alive today, give taste for quarreling with us Sunny Gill has made gunshot with his pistol towards me with the aim to kill, I escaped myself and the gunshot hit on the stomach of my mother Lata who was standing behind me, then we raised noise Mardita Mardita and on looking gathering of people on the spot, Sunny Gill and his associates ran away from the spot along with their respective weapons and raising Lalkaras and threatening us. We have arranged the vehicle and took our mother at Corporate hospital Amritsar for treatment, where after checking, the doctors have declared my mother to be dead. I left my brother Sunny alias Talli and my father Parmod Kumar near the dead body of my mother in Corporate Hospital, Batala and I was going to inform you and you met me. Legal action be taken against the above said accused persons.”

6. No doubt, the petitioner has been specifically named and attributed a role in the occurrence in question, wherein the complainant's mother lost her life, however, as not disputed, the complainant resiled during trial.

7. Be that as it may, since the entire evidence is already before the trial Court, this Court would refrain from commenting upon the merits of the case and deems it fit to extend the concession of bail to the petitioner in view of the fact that 22 prosecution witnesses still remain to be examined and thus, the trial would take considerable time to conclude.

8. 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.

9. 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.

August 28th, 2024
Puneet

(MANJARI NEHRU KAUL)
JUDGE

Whether speaking/reasoned : Yes

Whether reportable : No