



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

240

CRM-M-40371-2024**Date of decision: 23.10.2024****VINAY NEGI**

...Petitioner

V/s

STATE OF PUNJAB

...Respondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present: Mr. B.R. Rana, 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.244 dated 20.08.2022 under Sections 302, 148, 149, 160, 151 of the IPC (Section 307 of the IPC added later on) registered at Police Station Sahnewal, District Ludhiana.

2. Learned counsel for the petitioner, at the outset, submits that the false implication of the petitioner in the FIR in question is evident from the fact that while stepping into the witness box both the material witnesses i.e. PW-1-Rajesh Kumar and PW-2-Vijay Kumar, did not support the case of the prosecution, as a result of which they both were declared hostile. Learned counsel submits that since the instant case is based on eye-witness account and all the material witnesses not only stand examined but also declared hostile; further incarceration of the petitioner in the aforementioned facts and circumstances would serve no useful purpose more so when 17 witnesses cited by the prosecution still remain to be examined and there is no likelihood of the trial concluding in the near



future. In support, learned counsel has drawn the attention of this Court to Annexures P-1 and P-2 which are testimonies of both these material witnesses.

3. *Per contra*, learned State counsel while opposing the prayer and submissions made by learned counsel opposite, on instructions, has drawn the attention of this Court to the allegations levelled in the FIR which stand reproduced hereinunder:-

*"Statement of Vijay Kumar son of Late Baleshwar Singh, resident of Village Gagipur, Police Station Desari, District Vaishali, Bihar at present resident of in between of Street No.2, 3 House No. 458/4/42, Mohalla, New Teg Bahadur Nagar, Makkar Colony, District Ludhiana aged approximately 44 years Phone NO. 73554-98408. That I am resident of the above said address and is working in Om Steel Factory Dhandari Kalan as welder. My marriage was solemnized in the year 1998. with Sulekha Devi I have three sons. Eldest is Deepak Kumar, Golu Kumar younger to him and Shubham Kumar is youngest. Elder son Deepak Kumar aged 18 years after studying 8th class started working with Rajesh son of Raj Kumar resident of Samrat Colony on D.J. right now Deepak was working with me at factory for last 3-4 months. On 19.08.2022 it was birthday of my son Deepak, who cut a cake at 09:30 PM at home and thereafter, went outside the house to meet his friends and at about 11:30 I got to know that Choot has arranged DJ of Rajesh Kumar for his birthday in Street No.7, Makkar colony where Ashish Kumar @ Chotu and his friends were gathered and my son Deepak had gone to meet Rajesh Kumar DJ because earlier he was working with him. From somewhere I got to know that boys present near the DJ in street namely **Vinay @ Negi**, Kunal @ Kannu, Krishan Kumar, Anil Kumar, Arjan, Prince, Chotu, Chintu, Aryan Bablu, Kalu and Ankesh who are living near our mohalla and Mani Khachar resident of Dabba and Vishal and 7/8 other boys were fighting with each other with swords, Iron Daat and Bricks and were also giving beating to my son Deepak on which I reached the spot alongwith my son Golli, where aforesaid gave sword and daat*



blow on the head of my son Deepak and gave brick bat blows. Motive is that aforesaid gave beating to my son, which suspicion of being member of other party. I reached Civil Hospital Ludhiana after arranging private vehicle with the help of my son Golu where doctor upon checking referred him to DMC Hospital, Ludhiana being serious, where I was not able to pay for the bills of the hospital, therefore, I took my son to PGI Hospital Chandigarh after arranging the ambulance for treatment, where my son Deepak died on the way. I got to know that Kunal @ Kannu has also received many injuries. Statement has been got recorded to you, heard it is correct. The accused persons may be punished by taking the legal action against accused persons.”

However, learned State counsel, on instructions, has not controverted the factum of all the material witnesses having been examined and also having been declared hostile during trial.

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

5. The petitioner has been in custody since 20.08.2022 and, as already observed earlier, the material witnesses were declared hostile. Hence, 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 and 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.

October 23, 2024
poonam

(MANJARI NEHRU KAUL)
JUDGE

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