



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

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CRM-M-40398-2024

Date of decision: 28.08.2024

Akhil Kumar

.....Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present : Mr. Ashutosh Sharma, Advocate
for the petitioner.

Mr. Amit Rana, Sr. DAG, Punjab.

MANJARI NEHRU KAUL, J. (ORAL)

1. The petitioner in the instant (second) petition is seeking the concession of bail under Section 439 of the Cr.P.C. in case FIR No.0079 dated 23.04.2023 under Sections 307, 120-B of the IPC and Sections 25, 27, 54 of the Arms Act, 1959 registered at Police Station Gate Hakima, District Police Commissionerate Amritsar.

2. Learned counsel for the petitioner submits that the petitioner has been in custody since 08.06.2023; a perusal of the FIR in question reveals that the alleged assailant, who fired towards the complainant had muffled his face and it was only on the basis of a vague suspicion that the alleged attack upon the complainant had been carried out at the behest of the petitioner, he had been challaned in the present case. Learned counsel submits that even though the investigation in the present case is complete and charges stand framed, however, till date not even a single prosecution witness out of the 19



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cited has been examined. Still further, it has been submitted that the petitioner has clean antecedents and is not involved in any other criminal case which lends credence to his false implication in the present case.

3. Per contra, learned State counsel while opposing the prayer made by learned counsel for the petitioner, on instructions, has not disputed the stage of trial, however, it has been submitted that a suspicion had been raised by the complainant at the very first instance that the unidentified muffled faced assailant who fired at the left bicep of the complainant had done so at the behest of the petitioner on account of some previous animosity. Learned State counsel has further submitted that in fact a supplementary statement was also given after 08 days of the occurrence in question by the complainant, wherein he stated that as per CCTV footage of the place of occurrence, it appeared that the muffled assailant, who had allegedly fired at him, was none other than the petitioner.

4. On a pointed query put to the learned State counsel as to whether any other evidence had been collected by the investigating agency to link the petitioner with the alleged crime, he, on instructions has replied in the negative. On a further query as to whether the weapon of offence had been provided by the petitioner to the assailant who had alleged fired upon the complainant, learned State counsel has replied in the negative and submitted on instructions that the weapon of offence had been provided to the alleged assailant by co-accused Vikram Singh.

It has also not been disputed that the petitioner does not have any



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criminal antecedents.

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

6. Before proceeding further, it would be relevant to reproduce the contents of the FIR, which are as under:-

“Statement of Surjit Singh S/O Harbans Singh R/O H.no.D/3/2775 Ekta nagar, Chota Haripura Amritsar age about 40 years phone no. 7035288886. Stated that I am resident of above mentioned address and I use to do the work of recovery which I have stopped 2-3 months ago and now I do the work at home. Today I was sitting at the foot steps of the door of my house than one young man who had covered his head and face with white cloth came from the side of Katchi Gali walking swiftly and came in front of me and then with intention to kill me fired from the pistol he was carrying towards me and bullet hit me on my left Bicep and then in order save myself I ran inside my house and the youngmen along with his Pistol ran towards Dhupie village I have Suspicion that this attack on me has been got done by Akhil and Billa of Telephone Wali Gali as they use to indulge in illegal activities in our Mohalla and I had stopped them few days back Action be taken against Akhil Billa and unknown person and I be Given Justice. I have read and heard the statement. Sd- Surjit Singh”

7. The petitioner has been in custody for more than a year having been arrested on 08.06.2023. The alleged role attributed to the petitioner is of a conspirator to the crime in question wherein the complainant was alleged fired upon by an unknown assailant. The trial has not proceeded further beyond framing of charges, hence, the possibility of the trial concluding in the near future seems improbable. In the facts and circumstances as enumerated hereinabove, this Court deems it fit to extend the concession of bail to the petitioner.

8. Accordingly, the instant petition is allowed. The petitioner

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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.

28.08.2024

(MANJARI NEHRU KAUL)
JUDGE

Vinay

Whether speaking/reasoned

:

Yes/No

Whether reportable

:

Yes/No