



CRM-M-41806-2024

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**225 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**CRM-M-41806-2024
Decided on : 03.09.2024

Mani Khachra

..... Petitioner

Versus

State of Punjab

..... Respondent

CORAM : HON'BLE MRS. JUSTICE MANJARI NEHRU KAULPresent : Mr. Naveen Sharma, Advocate
for the petitioner.

Mr. Amit Rana, Sr. DAG, Punjab.

Manjari Nehru Kaul, J.(Oral)

1. This is the petition filed by the petitioner under Section 483 BNSS seeking concession of regular bail in case FIR No.244 dated 20.08.2022 under Sections 302, 307, 323, 148, 149, 160 and 151 IPC registered at Police Station Sahnewal District Ludhiana.

2. Learned counsel for the petitioner has, at the outset, submitted that both the material witnesses in the present case i.e. complainant Vijay Kumar (father of deceased Deepak Kumar) and another eyewitness Rajesh Kumar had not supported the case of the prosecution. This Court vide orders dated 08.08.2024 and 16.07.2024 (Annexure P-3 and P-4) had therefore, extended the concession of bail to identically placed co-accused Prince Kumar and Sham Sunder @ Kunal. Learned counsel has further submitted



that in the circumstances, the petitioner, who has been in custody since 25.08.2022 also deserves to be enlarged on bail as 20 prosecution witnesses still remain to be examined. It has been further argued by the learned counsel that since it is a case based on eyewitness account wherein the deceased was allegedly inflicted fatal injuries by the accused party, and both the material witnesses including the complainant, who allegedly witnessed the occurrence in question, had been declared hostile, it clearly lent credence to his false implication in the present case.

3. Per contra, learned State counsel while opposing the prayer and submissions made by learned counsel for the petitioner, on instructions from ASI Ram Murti, has not been able to dispute that both the material witnesses including the complainant have been examined before the trial court and since they had not supported the case of the prosecution, they had been declared hostile. Learned State counsel has also not disputed the stage of the trial. However, learned State counsel has reiterated the allegations levelled in the FIR in question, 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 Gollu, 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.”

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

5. The petitioner has been in custody for more than two years having been arrested on 25.08.2022. The trial is unlikely to conclude in the near future as 20 prosecution witnesses still remain to be examined. Both the material witnesses as already observed in the earlier part of this order have been examined and declared hostile.

6. 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.

7. However, it is made clear that anything observed hereinabove shall not be construed to be an expression of opinion on



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the merits of the case.

8. Needless to add, in case the petitioner misuses the concession of bail granted to him, the State would be at liberty to seek cancellation of the same.

03.09.2024
sonia

(MANJARI NEHRU KAUL)
JUDGE

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