



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

CRM-M No.42670 of 2024

Date of decision: 5th September, 2024

Krishan Kumar

... Petitioner

Versus

State of Punjab

... Respondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present: Mr. S.S. Maini, Advocate for the petitioner.

Mr. Amit Rana, Sr. Dy. Advocate General, Punjab
for the respondent/State.

MANJARI NEHRU KAUL, J. (ORAL)

1. The petitioner is seeking the concession of bail under Section 439 of Cr.P.C. in case FIR No.244 dated 20.08.2022 under Sections 302, 148, 149, 160, 151 of the IPC (Section 307 IPC added later on) registered at Police Station Sahnewal, District Ludhiana.

2. Learned counsel for the petitioner, at the outset, has drawn the attention of this Court to the deposition of both the material witnesses i.e. PW-1 Rajesh Kumar (Annexure P-3) and PW-2 Vijay Kumar (Annexure P-2) and has submitted that both these material witnesses, which include the complainant PW-2 Vijay Kumar, while stepping into the witness box before the trial Court, had not supported the case of the prosecution, as a result of which they were both declared hostile. Learned counsel has argued that since the present case is based



on eye-witness account and both the alleged eye-witnesses had not supported the case of the prosecution, it was evident that the petitioner was innocent and had been falsely implicated in the present case. It has, still further, been submitted by the learned counsel that the petitioner has now been in custody since 20.08.2022 and 21 prosecution witnesses still remain to be examined, hence, the possibility of the trial concluding in the near future looks bleak. Learned counsel has also submitted that identically placed co-accused Sham Sunder alias Kunal and Prince Kumar, have already been extended the concession of bail by this Court vide orders dated 16.07.2024 and 08.08.2024, respectively. A prayer has, therefore, been made for extending the concession of bail to the petitioner as well, as his further incarceration would serve no useful purpose.

3. Per contra, learned State counsel while opposing the prayer and submissions made by the counsel opposite, on instructions, has not been able to dispute that both the material witnesses including the complainant, who allegedly also witnessed the occurrence in question, had been examined and had resiled during trial leading to both of them being declared hostile. However, learned State counsel has reiterated the allegations levelled in the FIR in question, which stands reproduced hereunder:

*“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 do the work of welding in Om Steel Factory Dhandari Kalan. My marriage was solemnized with Sulekha Devi in the year 1998. I have three sons eldest is Deepak Kumar, younger to him is Golu Kumar and youngest is Shubham Kumar. My eldest son namely Deepak having age approximately 18 years after studying upto 8th class started to do the work of DJ with Rajesh son of Raj Kumar resident of Samrat Colony. At present, Deepak was working with me in the factory from last 3-4 months. On dated 19.08.2022 there was birthday of my son Deepak and due to that the cake cutting ceremony was performed at home at time approximately 09:30 PM and thereafter, went out of the home in order to meet his friends. At time approximately 11:30 I came to know that Choot has arranged the DJ of Rajesh Kumar for his birthday in Makkar colony Street No.7, where Ashish Kumar @ Choot and his friends had gathered and my son Deepak had gone over there in order to meet Rajesh Kumar DJ because earlier he was working with him. I came to know from someone that the present near the DJ namely Vijay @ Negi, Kunal @ Kannu, Krishan Kumar, Anil Kumar, Arjan, Prince, Chootu, Chintu, Aryan Bablu, Kalu and Ankesh who are reside nearby our locality and Mani Khachar resident of Daba and Vishal and 7/8 other boys are giving beatings to each other openly with Talwar, Iron Dattar and with



Bricks and are also giving beating to my son Deepak then I immediately reached on the spot alongwith my son Gollu, where the above said while seeing by me gave many blows on the head of my son Deepak with Kirpan and Dattar bricks were hit to him reason behind the grudge is that already some dispute was going on between the above said accused persons and during the continuation of the same, the above said caused injuries to my son on the suspicion of belonging to one or the other party. From where I with the help of my son Gollu took him and Civil Hospital Ludhiana for treatment after arranging the private vehicle where Dr. Sahib after checking him and due to the serious condition referred to DMC Hospital, where I was not having money to pay the bill of Hospital so I brought my son at PGI Hospital Chandigarh for further treatment after arranging the ambulance where at the time of going, my son Deepak died on the way. I have come to know that in this quarrel, 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 relevant material on record.

5. The petitioner has now been in custody since 20.08.2022. The trial would still take time to conclude as prosecution has cited 21 witnesses. In addition to this, two material witnesses including the



complainant already stand examined. In the facts and circumstances, as enumerated hereinabove, this Court, thus, deems it fit to extend the concession of bail to the petitioner. The petition as such is allowed and the petitioner is admitted to bail to the satisfaction of the trial Court/Duty Magistrate. 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.

6. Needless to add, in case the petitioner misuses the concession of bail, the State would be at liberty to approach this Court for cancellation of bail in the instant case.

(MANJARI NEHRU KAUL)
JUDGE

September 5, 2024
rps

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