



IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

107+242

CRM-M-42715-2024 (O&M)

Date of decision: 05.12.2024

Bada Bahadur @ Bahadur

.....Petitioner

Versus

State of Haryana

.....Respondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present : Mr. Karan Singla, Advocate (through VC)
for the petitioner.

Mr. Rahul Mohan, Sr. DAG, Haryana.

MANJARI NEHRU KAUL, J. (ORAL)

CRM-47369-2024

For the reasons mentioned in the application, the same is allowed and copy of examination-in-chief and cross-examination of the complainant is taken on record as Annexure P-10 subject to all just exceptions.

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1. The petitioner in the instant (second) petition is seeking the concession of bail under Section 483 read with Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023 in case FIR No.37 dated 27.09.2021 under Sections 120-B, 148, 149, 201, 302, 307 and 427 of the IPC registered at Police Station Sector-7, Panchkula.

2. Learned counsel for the petitioner while drawing the attention of this Court to the deposition of the complainant which has been filed by way of CRM-47369-2024, submits that the complainant,



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who claimed to be an eye witness to the occurrence in question had categorically deposed before the learned Trial Court that the petitioner was not one of those persons who along with two co-accused Shekhar and Sunil assaulted the complainant party including the deceased. Learned counsel submits that in the circumstances, it is evident that the petitioner is innocent and has been falsely implicated in the present case. Learned counsel submits that in the aforementioned facts and circumstances since the complainant (the alleged eye witness) and another person Anand, who allegedly also witnessed the crime in question had been declared hostile, further incarceration of the petitioner would serve no useful purpose as 27 prosecution witnesses still remain to be examined. A prayer has, therefore, been made to extend the concession of bail to the petitioner.

3. *Per contra*, learned State counsel while opposing the prayer made by learned counsel for the petitioner, has reiterated the allegations levelled in the FIR, which stands reproduced hereinunder:-

“Statement Rinku S/O Suraj Bhan Resident H.No. 152 Power Colony Phase-2 SECTOR-19, Age 34 years M.No.-77430- 52202 Stated that I am a resident of the above address and i am doing SALE PURCHASE of a SECOND HAND car., on the night of 26.09.2021, I along with my friend Rinku S/O Amarjeet resident Ropar or Anand R/O Himshikha Colony Panchkula had dinner at Simran Hotel Zirakpur in Mamta Enclave and boarded my car number I 10- HR05-6636. Were coming towards Majri Chowk. When we stopped near the bus stop of Majri Chowk, at around 11.30 PM, two Car and two motorcycles stopped near our car, in which about 10/12 men got down and had swords, axes or sticks in their hands, who as soon as they came attacked my car. But when they started wreaking havoc with their weapons, all three of us got out of the car and started running to save our lives, then one of them, Shekhar, resident of Maheshpur, said that all of them should not escape. let's finish them today. The boys who



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came with them were Johnny alias Pradeep resident Khadak Magargoli Hall Address Handesara, Pappi S/O unknown resident Asiana SEC 20, Vakili S/O unknown resident Khadak Marmoli, Manish alias Bahadur S/O Jagbir Vasau Khadak Magauli, Babbi resident Fatehpur SEC-20 PKL, Bada Bahadur S/O Magu and other 7/8 boys whom I can recognize when they come forward, they together surrounded Rinku son of Amarjeet and attacked him with their weapons and caused injuries on his face or head and we all tried to save our lives. When I ran towards Kaluni, I saw that Rinku had fallen down and everyone was attacking him with weapons. At that time, we entered Khadak Magargoli to save our lives. After about 10/15 minutes, when we came back to the spot, we saw that Rinku was lying dead on the ground and there was a lot of blood scattered on the spot. Rinku S/O Amarjeet was killed by all the above persons together with swords, swords or sticks. All the above mentioned people have committed this incident because of our old feud. Legal action should be taken against all of them. I have written my statement to you and read it, okay. SD Rinku Kumar 7743052202 attested Pardeep Kumar SI Ps sec 7 PKL Dt-27.09.2021.”

4. However, learned State counsel has not been able to dispute on instructions that the complainant who also allegedly witnessed the crime in question had not supported the case of the prosecution qua the petitioner as a result of which he was declared hostile; it has also not been disputed that another person Anand had been declared hostile during trial. Learned State counsel, on further instructions, has not disputed the custody period of the petitioner, who has now been in custody since 11.01.2022 nor has he disputed the stage of trial.

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

6. The petitioner has been in custody since 11.01.2022.



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Although the petitioner was named in the FIR in question, however, as not disputed by the learned State counsel, the complainant and another eye witness, had not supported the case of the prosecution qua the petitioner and had deposed that the petitioner was not present along with the co-accused at the time of the alleged occurrence. Be that as it may, since the material witnesses stand examined and 27 witnesses still remain to be examined, the trial is unlikely to conclude in the near future. In the facts and circumstances as enumerated hereinabove, this Court deems it fit to extend the concession of bail to the petitioner.

7. 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. 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.

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.

05.12.2024

Vinay

(MANJARI NEHRU KAUL)
JUDGE

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