



IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

220

CRM-M-43970-2024
Date of decision: September 11th, 2024

Mohinder Bhatti
.....Petitioner

Versus

State of Punjab
.....Respondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present: Mr. Navneet Kaur Waraich, Advocate
for the petitioner.

Mr. Amit Rana, Senior Deputy Advocate General, Punjab.

MANJARI NEHRU KAUL, J. (ORAL)

Petitioner is seeking the concession of bail under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (BNSS) read with Section 439 of the Cr.P.C. in case FIR No.2 dated 04.01.2023 under Sections 302, 34 of the IPC and Sections 25, 27, 29 of the Arms Act, registered at Police Station Gate Hakima, District Amritsar.

2. Learned counsel for the petitioner has submitted that the false implication of the petitioner in the crime in question is evident from the fact that both, the complainant (cousin of deceased-Rahul), alleged eyewitness, and Kiran (mother of the deceased), while stepping into the witness box during trial, had not supported the case of the prosecution, as a result of which they both were declared hostile. In support, learned counsel has drawn the attention of this Court to the depositions of the complainant Sawan, who testified as PW-1 and Kiran, mother of the deceased, who testified as PW-2, which have been annexed as Annexures P-2 and P-3 respectively. Learned counsel has

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submitted that other than these two material witnesses, there was no other material witness to be examined and in the aforementioned facts and circumstances, further incarceration of the petitioner would serve no useful purpose as 17 prosecution witnesses still remain to be examined.

3. While further drawing the attention of this Court to the allegations levelled in the FIR, it has been asserted that even otherwise, fatal injuries have not been attributed to the petitioner but have been attributed to one Mayank, who allegedly inflicted injuries on the person of the deceased with a firearm. A prayer has, therefore, been made to extend the concession of bail to the petitioner.

4. *Per contra*, learned State counsel while opposing the prayer and submissions made by the counsel opposite, on instructions, has not disputed that both the material witnesses including the complainant stand examined and they had been declared hostile during trial. However, learned counsel has drawn the attention of this Court to the allegations levelled in the FIR, which stands reproduced hereinunder:-

“Statement of Sawan s/o Rakesh Kumar @ Sonu resident of H.No.1505, Street Kakia Vali Katda Bogia Amritsar, aged about 19 years, Mobile No.9465873112. Stated that I am the resident of abovesaid address and is doing catering work with my cousin (Massi's son) and my cousin brother-in-law Rahul s/o Ved Parkash resident of H.No.133, Shakti Nagar, Beria Vali Market, Inside Lahori Gate Amritsar also did catering work with us and for this business of catering, we made a godown for keeping the things in the Flat No. HR-149 in Amar Avenue Baherwar Gate Hakeema and when I and Rahul went to the godown in Amar Avenue on 03.01.2023 at 08:30 and when we come out from the godown by taking some things and that time Mahinder Bhatti and his son's Mayank (Anni) and Haidar Bhatti came forward to us who reside in front of our flat. They started abusing to Rahul and also told to him that they already stop you to come here in the Mohalla but you again come and then Mahinder Bhatti, Mayank (Anni) and Haider Bhatti

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started beating to Rahul. They gave blow on the face of Rahul but when Rahul protested it then (Mayank took out gun from his dub and fired on Rahul from front side and Rahul laid down on the earth by the gunshot. I ran away from the spot in fear. I informed about it to Mrs. Kiran mother of deceased Rahul and brother and then we all come again to the spot. When we saw Rahul on the earth, we took him and reached Civil Hospital where doctor checked him and declared him dead and I have stated all this which we seen what Mahender Singh Bhatti, Mayank Singh and Hairdar Bhatti beaten him up and Mayank (Anni) fired at him and shot him. Kindly do legal proceedings and I got recorded my statement in front of the mother of deceased Rahul.”

5. Learned State counsel has also not disputed that 17 prosecution witnesses still remain to be examined. Learned State counsel has placed on record the custody certificate of the petitioner, wherein also, it stands reflected that he is not involved in any other case.

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

7. In the facts and circumstances as enumerated hereinabove, the instant petition is allowed. The petitioner be admitted to bail 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.

September 11th, 2024
Puneet

(MANJARI NEHRU KAUL)
JUDGE

Whether speaking/reasoned : Yes

Whether reportable : No