



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

CRA-S No.2829 of 2023 (O&M)
Date of decision: 25th October, 2024

Parveen @ Miyan

... Appellant

Versus

State of Haryana & another

... Respondents

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present: Mr. Rohit Sharma, Advocate for
Mr. D.S. Matya, Advocate for the appellant.

Mr. Gagandeep S. Chhina, Asst. Advocate General, Haryana
for the respondents/State.

MANJARI NEHRU KAUL, J. (ORAL)

CRM No.42004 of 2023

The instant application has been filed for condonation of
delay of 262 days in filing the appeal.

In light of the averments made in the application and in the
interest of justice, the same is allowed and delay in filing the appeal is
condoned.

CRA-S No.2829 of 2023

1. The appellant is challenging an order dated 04.01.2023
passed by the Court of learned Additional District & Sessions Judge,
Rewari vide which his application for the concession of bail under
Section 439 Cr.P.C. in case FIR No.239 dated 09.06.2022 under

Sections 323, 325, 307, 34 of the IPC, Section 25 of the Arms Act, 1959, and Section 3 of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 registered at Police Station City Rewari, District Rewari has been dismissed.

2. Learned counsel for the appellant submits that false implication of the appellant in the present case is evident from the fact that while stepping into the witness box as PW-4, the complainant had not supported the case of the prosecution as a result of which he was declared hostile. It has been further submitted that since the most material witness in the instant case i.e. the complainant, who also suffered injuries in the occurrence in question, has been examined and did not support the case of the prosecution, further incarceration of the appellant would serve no useful purpose as there can be now no apprehension of the appellant tampering with the evidence or intimidating/influencing the witnesses. It has also been submitted that 29 prosecution witnesses still remain to be examined; furthermore, identically placed co-accused Sunil Kumar has since been extended the concession of bail by this Court vide order dated 24.09.2024 primarily on the same grounds i.e. of the complainant having been declared hostile during trial. A prayer has therefore, been made for extending the concession of bail to the appellant.

3. Per contra, learned State counsel while opposing the prayer and submissions made by the counsel opposite, on instructions, has not disputed that the most material witness, i.e. the complainant stands examined and has since been declared hostile during trial. However,

learned State counsel has reiterated the allegations levelled in the FIR in question, which stands reproduced here under:

“Statement of Govnd @ Chotu S/o Suresh Kumar Saini R/o Nanu Kalan, P.S. Patoudi District Gurugram at present residing at H. No. 102, Street No. 7, Vikas Nagar, Rewari aged 18 years Mob: 9053680721. – 23 the road. They started firing upon us and from our side Rajkumar @ Jhota also started firing upon them and everyone started running and they, fired one shot which hit me on thigh of my right leg and I ran towards Kala Mata's Mandir and I fell there. In an ambulance I have been admitted to GH Rewari for treatment. Lateron I came to know that my friends Naveen, Rajesh, Devpal also got shot and Messi sustained injury on hand. Legal action should be taken against them. Given my statement, heard and is correct. Sd/- Govind”

4. On a pointed query put to the learned State counsel, he, on instructions, has not disputed that the appellant has been in custody since 09.06.2022. Learned State counsel, however, has submitted that as per the instructions received by him, the appellant is involved in a number of other criminal cases also and in case he is enlarged on bail, there is every likelihood that he could yet again commit some crime.

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

6. It has not been disputed by the learned State counsel that the sole material witness in the instant case, i.e. the complainant, already stands examined and has since been declared hostile during trial.

Undoubtedly, the appellant, as per the instructions received by the learned State counsel, is involved in a number of criminal cases, however, since all the material witnesses including the complainant stand examined in the present case, and as already observed, did not support the case of the prosecution, further incarceration of the appellant in the instant case would serve no useful purpose as 29 prosecution witnesses still remain to be examined.

7. Although the appellant is on bail in a number of cases, however, it is also a matter of record that he is inside in some other criminal cases pending against him.

8. In the facts and circumstances, as enumerated hereinabove, this Court, thus, deems it fit to extend the concession of bail to the appellant. The appeal as such is allowed and the appellant 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.

9. Needless to add here, in case the appellant 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

October 25, 2024
rps

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