

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

227

CRM-M-52645-2023

Date of decision: 20.02.2024

Dilbag @ Sonu

.....Petitioner

Versus

State of Haryana

.....Respondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present : Mr. Edward Augustine George, Advocate
for the petitioner.

Ms. Trishanjali Sharma, DAG, Haryana.

MANJARI NEHRU KAUL, J. (ORAL)

1. The petitioner is seeking the concession of bail under Section 439 of the Cr.P.C. in case FIR No.352 dated 29.07.2018 under Sections 148, 149, 302, 307, 379, 216, 120-B of the IPC and Section 25 of the Arms Act, 1959 registered at Police Station Butana, District Karnal.

2. Reply by way of affidavit of Subash Chander, HPS, Deputy Superintendent of Police, Indri, Karnal, along with custody certificate of the petitioner, has been filed in the Court today which is taken on record subject to all just exceptions. A copy of the same has been supplied to the counsel opposite.

3. Learned State counsel at the outset has not controverted the submissions made by learned counsel for the petitioner on the last date of hearing that the complainant was indeed a man of criminal antecedents and had also been declared a proclaimed offender in another case which stood registered against him; she on further

instructions, has not disputed that the complainant had fled away to Australia.

4. Learned counsel for the petitioner in the aforementioned facts and circumstances and instructions received by the learned State counsel, has vehemently urged that since the petitioner has been in custody for 04 years and 06 months, having been arrested on 10.08.2019, his further incarceration would serve no useful purpose. It is also a matter of record that none of the 51 prosecution witnesses cited have been examined till date.

5. Learned counsel appearing for the State, however, has opposed the prayer made by learned counsel for the petitioner for enlarging the petitioner on bail in view of the petitioner having actively participated in the occurrence in question wherein the co-accused fired indiscriminately killing the deceased. It has also been urged by the learned State counsel that the petitioner is involved in some other criminal cases.

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

5. It is a case based on an eye witness account, however, as not disputed by the learned State counsel that the complainant, who also is an eye witness to the occurrence in question and thus the most material witness, has fled away to Australia and since been declared a proclaimed offender. In the circumstances, it is a matter of record that the trial has come to a virtual standstill after the charges were framed way back on 23.03.2021. In the facts and circumstances of the case, the criminal antecedents of the petitioner would not come in his way of

being extended the concession of bail in the instant case.

6. 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.

7. 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.

20.02.2024

(MANJARI NEHRU KAUL)
JUDGE

Vinay

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