



CRM-M-52269-2024

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**234 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**CRM-M-52269-2024
Decided on : 25.10.2024

Mayank @ Anny Bhatti

..... Petitioner

Versus

State of Punjab

..... Respondent

CORAM : HON'BLE MRS. JUSTICE MANJARI NEHRU KAULPresent : Mr. Navneet Kaur Waraich, Advocate
for the petitioner.

Mr. Shiva Khurmi, AAG, Punjab.

Manjari Nehru Kaul, J.(Oral)

1. This is the petition filed by the petitioner seeking concession of regular bail in case FIR No.02 dated 04.01.2023 under Sections 302, 34 IPC and Sections 25, 27, 29 and 54/59 of Arms Act, 1959 registered at Police Station Gate Hakima District Amritsar.

2. Learned counsel for the petitioner submits that the petitioner has been in custody in a case of false implication since 04.01.2023. It has been asserted that instant case is based on eyewitness account wherein the petitioner was alleged to have inflicted fire arm injuries on the chest of the deceased; the alleged occurrence was witnessed by PW-1 Sawan (cousin of the deceased). However, while deposing before the Trial Court, he had not supported the case of the prosecution, as a result of which, he



was declared hostile. In support, learned counsel has drawn the attention of this Court to the deposition of PW-1 Sawan, which is annexed as Annexure P-2. It has also been submitted that similarly PW-2 Kiran, mother of the deceased, who had come to the place of occurrence soon after the alleged crime had taken place, had also not supported the case of the prosecution and had been declared hostile during trial. In support, learned counsel has drawn the attention of this Court to the deposition of PW-2 Kiran, which is annexed as Annexure P-3 wherein the said fact stands reflected. In the aforementioned facts and circumstances since both the material witnesses stand examined and were declared hostile, further incarceration of the petitioner would serve no useful purpose as 17 prosecution witnesses still remain to be examined.

3. Per contra, learned State counsel while opposing the prayer made by learned counsel for the petitioner, on instructions from SI Jaspal Singh, has not disputed the factum of both the material witnesses i.e. the complainant as well as mother of the deceased turning hostile. The custody period of the petitioner as well as stage of trial has also not been disputed by the State counsel. However, he has drawn the attention of this Court to the allegations levelled in the FIR in question, which is reproduced as under:

*“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 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 Haidar 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. Sd/-”



Learned State counsel further submits that in all likelihood the witnesses had turned hostile for reasons but obvious after being won over.

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

5. The petitioner has been in custody since 04.01.2023 in a case based on an eyewitness account. Both the material witnesses as also conceded by the State counsel did not support the case of the prosecution, as a result of which, they were declared hostile. The possibility of the trial concluding in the near future seems remote as 17 prosecution witnesses still remain to be examined.

6. In the facts and circumstances as enumerated hereinabove, this Court deems it fit to extend the concession of regular bail to the petitioner. 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.

7. 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.

25.10.2024
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(MANJARI NEHRU KAUL)
JUDGE

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