

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

214

2024:PHHC:048131

CRM-M-55761-2023

Date of decision: April 9th, 2024

Happy Singh @ Ammy

.....Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present: Mr. Imaan Singh Khara, 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 439 of the Code of Criminal Procedure, 1973 in case FIR No.5 dated 12.01.2022 under Sections 302, 34 of the IPC and Sections 25, 27 of the Arms Act, 1959 (later on challan was presented under Sections 302, 427, 148, 149, 120-B of the IPC and Sections 25, 27 of the Arms Act, 1959), registered at Police Station Nathana, District Bathinda.

2. Learned counsel for the petitioner, *inter alia*, contends that the false implication of the petitioner in the crime in question is apparent from the fact that neither was he named in the FIR in question, which has been annexed as Annexure P-1, nor any suspicion raised qua his involvement in the alleged occurrence, which took place on 12.01.2022. Learned counsel, while drawing the attention of this Court to the FIR, has submitted that a perusal of the same reveals that it had been alleged that some unknown assailants had come to the place of occurrence in a vehicle, fired indiscriminately at the two deceased and fled away from the spot.

3. It has been further submitted that the petitioner came to be falsely nominated as an accused after 1 year and 5 months of the alleged occurrence even though he had no motive to either participate in the crime in question or even harbour the alleged assassins as had been later on projected by the prosecution. Learned counsel has placed on record the deposition of the complainant, who allegedly witnessed the occurrence in question. He has submitted that the complainant, while stepping into the witness box, had not supported the case of the prosecution, as a result of which he was declared hostile. Still further, not only was the complainant declared hostile during trial but even the other two alleged eyewitnesses i.e. PW-2 Harmail Singh and PW-3 Charanjit Singh did not support the case of the prosecution and were declared hostile during trial as they failed to identify co-accused, particularly accused Happy Singh on whose disclosure statement, the petitioner came to be nominated as an accused.

4. *Per contra*, learned State counsel while opposing the prayer and submissions made by the counsel opposite, on instructions from ASI Darshan Singh, has not disputed that all the three material witnesses in the instant case including the complainant had turned turtle and resultantly declared hostile. It has also not been disputed that the petitioner came to be nominated as an accused on the basis of a statement made by co-accused Happy Singh son of Darshan Singh qua whom the prosecution witnesses had turned hostile. Furthermore, learned State counsel, on instructions, has not disputed that the petitioner has no criminal antecedents. Learned State counsel, on further instructions, has however contended that the petitioner had provided the

weapon of offence to the co-accused and later harboured them after the twin murders.

5. Learned State counsel, on instructions, has informed the Court that 13 prosecution witnesses still remain to be examined and the next date fixed before the trial Court is 10.04.2024.

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

7. As not disputed by the learned State counsel, all the three material witnesses including the complainant did not support the case of the prosecution and failed to identify the co-accused, on whose disclosure statement, the petitioner was nominated as an accused.

8. In the facts and circumstances as enumerated hereinabove, further incarceration of the petitioner, who has been in custody since 24.05.2023, would serve no useful purpose as the trial is unlikely to conclude in the near future. Accordingly, the instant petition is allowed. The petitioner be admitted to bail to the satisfaction of the trial Court/Duty Magistrate concerned.

9. 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.

April 9th, 2024
Puneet

(MANJARI NEHRU KAUL)
JUDGE

Whether speaking/reasoned : Yes
Whether reportable : No