

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

207

2024:PHHC:040421
CRM-M-58981-2023
Date of decision: March 20th, 2024

Ramesh @ Lilu
.....Petitioner

Versus

State of Haryana
.....Respondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present: Mr. Mohit, Advocate
for the petitioner.

Ms. Trishanjali Sharma, Deputy Advocate General, Haryana.

Mr. Gourav Jain, Advocate
for the complainant.

MANJARI NEHRU KAUL, J.

Petitioner is seeking the concession of bail under Section 439 of the Code of Criminal Procedure, 1973 in case FIR No.168 dated 02.09.2020 under Sections 148, 149, 302, 323, 380, 427, 452, 120-B of the IPC (Sections 395, 201, 325, 440, 459 of the IPC added and Section 380 of the IPC deleted later on) and Section 25 of the Arms Act, 1959 registered at Police Station Bhattu Kalan, District Fatehabad.

2. Learned counsel for the petitioner, *inter alia*, contends that the petitioner has been falsely implicated in the instant case along with the other co-accused for allegedly committing the murder of Sandeep (hereinafter referred to as 'the deceased'). While drawing the attention of this Court to FIR, which has been annexed as Annexure P-1, it has been submitted that a bare perusal of the same reveals that petitioner has been attributed an injury only on a non-vital part i.e. left elbow of the deceased. It has been submitted that even otherwise, there are glaring inconsistencies in the version put forth by the prosecution since as per the FIR, petitioner is shown to have been armed with a pistol, whereas as per the disclosure

statement of the co-accused, petitioner is said to have been armed with iron pipes. A prayer has, therefore, been made that in the aforementioned facts and circumstances, since the petitioner has been in custody for more than 3 years and 6 months having been arrested on 14.09.2020, he be enlarged on bail as his further incarceration would serve no useful purpose, more so since the prosecution evidence is still underway.

3. *Per contra*, learned State counsel assisted by learned counsel for the complainant, while vehemently opposing the prayer and submissions made by the counsel opposite, has submitted that not only was the petitioner named in the FIR but even a specific firearm injury had been attributed to him. It has been submitted that the case rests on eyewitness account and even recovery of an iron rod, DVR and a broken mobile phone had been effected from him. While placing on record the custody certificate, learned State counsel has further submitted that the petitioner is a hardcore criminal, who is facing trial in following cases:-

1.	FIR No.288 dated 12.08.2019 under Sections 25 of the Arms Act, P.S. Bhuna, Fatehabad.
2.	FIR No.482/2019 under the NDPS Act, P.S. Sadar, Fatehabad.
3.	FIR No.148 dated 31.07.2019 under Sections 148, 149, 279, 307, 323, 341, 379, 427 of the IPC and Section 25 of the Arms Act, P.S. Bhattu Kalan, Fatehabad.
4.	FIR No.350 dated 04.10.2015 under Sections 285, 34 of the IPC, P.S. Bhattu Kalan, Fatehabad.

4. Learned State counsel has further submitted besides the above cases, he stands convicted for imprisonment of two years in FIR No.197 dated 28.08.2018 under Sections 285, 307, 323, 506, 34 of the IPC and Section 25-A of the Arms Act; hence, given his criminal antecedents, there is every likelihood that he may indulge in similar activities if released on bail. Learned State counsel has prayed for dismissal of the present petition as there is a likelihood that in case the petitioner is enlarged on bail, he

could intimidate/influence the witnesses and tamper with material evidence. It has been submitted that one out of 50 prosecution witnesses has been examined and the case is now fixed for arguments on charge after the arrest of another co-accused and the delay in the trial has been solely on account of the involvement of the petitioner in different cases for which he had to be taken on production warrants to different Courts.

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

6. A perusal of the custody certificate reveals that the petitioner is a habitual offender as there are four more criminal cases of similar nature pending against him and has been convicted in another case under Section 307 of the IPC. Still further, the case in hand rests on eyewitness account. *Prima facie*, it is discernible that the petitioner actively participated in the crime in question and has specifically been attributed a firearm injury on the elbow of the deceased.

7. In the facts and circumstances as enumerated hereinabove, this Court does not deem it fit to extend the concession of regular bail to the petitioner.

8. Accordingly, the petition stands dismissed.

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.

March 20th, 2024
Puneet

(MANJARI NEHRU KAUL)
JUDGE

Whether speaking/reasoned : Yes

Whether reportable : No