

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

225

2024:PHHC:026269

CRM-M-59063-2023

Date of decision: February 26th, 2024

Sharwan

.....Petitioner

Versus

State of Haryana

.....Respondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present: Mr. S.S. Sahu, Advocate
for the petitioner.

Ms. Trishanjali Sharma, Deputy Advocate General,
Haryana.

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.233 dated 15.08.2023 under Sections 147, 149, 186, 332, 341, 353, 506, 379-B of the IPC registered at Police Station Bhattu Kalan, District Fatehabad.

2. Learned counsel for the petitioner, *inter alia*, contends that the petitioner has been in custody since 02.09.2023 for allegedly diverting the water of the canal towards his fields. Learned counsel submits that the petitioner has been falsely implicated in the case in hand. It has also been submitted that after the petitioner was arrested, not only the investigation in the case in hand stands completed but even charges have been framed against him. Learned counsel submits that the next date fixed before the trial Court is 01.04.2024 when the prosecution evidence is likely to commence. Learned counsel further submits that in the aforementioned facts and circumstances, his further incarceration would serve no useful purpose as there could be no apprehension of the petitioner tampering with the evidence or trying to

influence the witnesses, more so as the case at hand rests on documentary evidence.

3. *Per contra*, learned State counsel while opposing the prayer and submissions made by the counsel opposite, on instructions, has not disputed that the investigation in the case at hand is complete and charges also stand framed. She has, on further instructions, informed the Court that as many as 16 witnesses have been cited by the prosecution and the next date fixed before the trial Court is 01.04.2024. She has further submitted that the petitioner has been previously also involved in similar cases of theft for which there are as many as seven other cases registered against him out of which he stands convicted in three. It has been also submitted that the petitioner had inflicted injuries on the Canal Guard when he stopped him from committing theft of the canal water.

4. Learned counsel for the petitioner has, however, controverted the instructions received by the learned State counsel. He submits that as per custody certificate dated 23.02.2024, the petitioner was shown to be involved in only one criminal case and not eight, as had been asserted by the learned State counsel.

5. On a pointed query put to the learned State counsel as to what was the nature of injury allegedly attributed to the petitioner, she on instructions, has informed the Court that all the injuries were opined to be simple in nature.

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

7. The petitioner has been in custody since 02.09.2023.

The investigation in the case at hand is complete, however, there is no

likelihood of the trial concluding in the near future as none of the 16 prosecution witnesses have been examined so far. Hence, the trial would taken considerable time to conclude.

8. In the facts and circumstances as enumerated hereinabove, the instant petition is allowed. The petitioner be admitted to bail 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.

9. Needless to say, in case the petitioner misuses the concession of bail granted to him, the State would be at liberty to seek cancellation of the same.

February 26th, 2024
Puneet

(MANJARI NEHRU KAUL)
JUDGE

Whether speaking/reasoned : Yes
Whether reportable : No