

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

229

**2024:PHHC:019320**  
**CRM-M-59717-2023**  
**Date of decision: February 12, 2024**

JOGENDER

...Petitioner

Versus

STATE OF HARYANA

...Respondent

**CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL**

Present: Mr. Partap Singh, Advocate  
with Mr. Gourav Jangra, Advocate  
and Mr. Vikas, Advocate  
for the petitioner.

Ms. Trishanjali Sharma, Deputy Advocate General, Haryana.

**MANJARI NEHRU KAUL, J. (ORAL)**

1. The instant petition has been filed under Section 439 of the Code of Criminal Procedure, 1973 for grant of regular bail to the petitioner in case FIR No.516 dated 12.12.2017 under Section 148, 149, 302, 201, 216, 120-B of the Indian Penal Code, 1860 and Sections 25, 54 and 59 of the Arms Act, 1959, registered at Police Station Urban Estate, District Rohtak.
2. Learned counsel for the petitioner *inter alia* contends that the petitioner has been in custody since 18.04.2019 for allegedly having conspired with co-accused including Rohit, who allegedly fired the fatal shot at the deceased. Learned counsel submits that during investigation, co-accused Amit, who was not stated to be present at the time of the alleged occurrence, suffered a disclosure statement, stating therein that it was at the pointing of the petitioner, the alleged assassins had gunned down the deceased to death. Learned counsel has further submitted that it is a matter of record that the complainant who was stated to be an eye-witness to the occurrence, while

stepping into the witness box, failed to identify the alleged assassins/co-accused, as a result of which, he was declared hostile. Learned counsel has, thus, argued that in the circumstances, when the c-accused/assassins had not even been identified by the eye-witness, he could not in any manner, be linked with the murder of Satyawar.

3. It has also been submitted by learned counsel for the petitioner that co-accused Amit, on whose disclosure statement, the petitioner came to be nominated as an accused, had since been extended the concession of bail by the Court of learned Additional Sessions Judge, Rohtak vide order dated 06.11.2019 (Annexure P-22). Learned counsel has also drawn the attention of this Court to Annexure P-25, which is an order granting the concession of bail to co-accused Ram Karan Pahalwan *qua* whom the motive to commit the murder in question had been alleged. Learned counsel has, thus, argued that in the aforementioned circumstances, further incarceration of the petitioner in the case in hand would serve no useful purpose as till date, only 3 prosecution witnesses including the most material witness that is the complainant/eye-witness out of the 68 cited had only been examined.

4. *Per contra*, while opposing the prayer and submissions made by the learned counsel for the petitioner, learned State counsel, on instructions, has not been able to dispute the factual aspect of the role attributed to the petitioner, however, she has reiterated that the petitioner though had not specifically been named in the FIR nor his presence shown at the time of the alleged occurrence, but had allegedly pointed out the deceased to the alleged assassins, besides he had also done a *recce* of the place of occurrence.

5. On a pointed query put to the learned State counsel as to whether the complainant, who was stated to be an eye-witness to the crime in question,

had failed to identify the alleged assailants, she on instructions, has replied in the affirmative and conceded that he was the sole material witness and had been declared hostile during trial. Learned State counsel has also not been able to dispute that as many as 65 prosecution witnesses remain to be examined and the next date fixed before the learned trial Court is 26.02.2024. However, learned State counsel has submitted that the petitioner has previously been involved in criminal cases though he stands acquitted in some of those while 3 cases are still pending against him.

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

7. The case in hand is based on eye-witness account. The eye-witness/complainant, as not disputed by the learned State counsel, was declared hostile during trial. The role attributed to the petitioner in the crime in question is of having pointed out the deceased to the alleged assassins, who as already observed earlier, were not identified by the complainant/eye-witness during trial. The name of the petitioner and his role in the crime in question surfaced in the disclosure statement allegedly suffered by co-accused Amit, who has since been enlarged on bail vide order dated 06.11.2019 (Annexure P-22).

8. In the facts and circumstances as enumerated hereinabove, this Court deems it fit to extend the concession of regular bail to the petitioner as there is no likelihood of the trial concluding in the near future. The petition as such is allowed; the petitioner be admitted to bail to the satisfaction of the trial Court/Duty Magistrate.

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.

10.           Needless to add here, in case the petitioner is found misusing the concession of bail, the State would be at liberty to approach this Court to seek cancellation of bail to him.

February 12, 2024  
*Jaspreet Kaur*

(MANJARI NEHRU KAUL)  
JUDGE

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