

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

231

CRM-M-59596-2023

Date of decision: 20.02.2024

Gourav

.....Petitioner

Versus

State of Haryana

.....Respondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present : Mr. Parminder Singh, Advocate
for the petitioner.

Ms. Trishanjali Sharma, DAG, Haryana.

Mr. Ajay Kripal Singh, Advocate
for the complainant.

MANJARI NEHRU KAUL, J. (ORAL)

1. The petitioner in the instant (second) petition is seeking the concession of bail under Section 439 of the Cr.P.C. in case FIR No.595 dated 06.10.2022 under Sections 148, 149, 216, 302, 323, 452, 506 of the IPC and Sections 25-27-30 of the Arms Act, 1959 registered at Police Station Tehsil Camp, Panipat.

2. Learned counsel for the petitioner inter alia contends that the petitioner is identically placed with co-accused Kunal Thakral and Sandeep @ Tinda, who too had been nominated as an accused on the basis of a disclosure statement allegedly suffered by the main accused Parveen; as per the disclosure statement, the petitioner was one of the unidentified persons who accompanied the co-accused to the place of occurrence. Learned counsel submits that as per the case of the prosecution, the deceased was inflicted fatal injuries by co-accused

Parveen and Sadhu who fired at the deceased with their respective firearms. Learned counsel submits that the factum of the deceased succumbing to firearm injuries stands corroborated from the medical evidence on record. In support, he has drawn the attention of this Court to Annexure P-2 i.e. the Post Mortem Report of the deceased. It has been further submitted that the Post Mortem Report does not reveal any injuries much less blunt which could have been sustained by the deceased on account of the alleged brick bats thrown on him by the accused including the petitioner. It has been further submitted that strangely co-accused Parveen after being arrested suffered his first disclosure statement on 15.10.2022 i.e. after 09 days of the alleged occurrence, however, there was no mention made therein, much less by way of a whisper with respect to the involvement of the petitioner in the crime in question; subsequently another disclosure statement was suffered by co-accused Parveen on 17.10.2022 wherein for the first time the name of the petitioner surfaced. Learned counsel has, thus, submitted that a fabricated case having been planted upon the petitioner could not be ruled out.

3. Per contra, learned State counsel, assisted by learned counsel for the complainant, while opposing the prayer and submissions made by learned counsel for the petitioner, has submitted that it is a case based on eye witness account. On the fateful day, all the accused accompanied co-accused Parveen and Sadhu to the house of the deceased; co-accused Parveen and Sadhu fired with their firearms towards the deceased leading to his subsequent death. No doubt, the petitioner was not named in the FIR in question, however, his role

surfaced after the co-accused were arrested, who then spelt out the role played by the petitioner in the crime in question. It has also been contended by the learned State counsel that even though the fatal injuries have been attributed to the co-accused, however, the petitioner had thrown brick bats towards the complainant party including the deceased.

4. On a pointed query put to the learned State counsel as to whether the petitioner's role was at par with that of co-accused Sandeep @ Tinda and Kunal Thakral, who had been granted bail by this Court on 12.10.2023 and 31.10.2023 respectively, she, on instructions has not disputed that all those accused too had been nominated in the disclosure statement suffered by co-accused and they too had not been attributed any firearm injuries.

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

6. The petitioner has been in custody since 31.10.2022. After the charges were framed on 22.11.2023 none of the 40 witnesses cited by the prosecution had been examined till date. Next date before the Trial Court, as per instructions received by learned State counsel, is 14.03.2024 when prosecution evidence is likely to commence. Hence, it is unlikely that the trial would conclude anytime in the near future. In the facts and circumstances as enumerated hereinabove, this Court deems it fit to extend the concession of bail to the petitioner.

7. 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. However, it

CRM-M-59596-2023

is made clear that anything observed hereinabove shall not be construed to be an expression of opinion on the merits of the case.

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

20.02.2024 (MANJARI NEHRU KAUL)
Vinay JUDGE

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