

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

228

CRM-M-61270-2023

Date of decision: 28.02.2024

Balwinder Singh

.....Petitioner

Versus

State of Haryana

.....Respondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present : Mr. Gurnoor Singh Sethi, Advocate and
Ms. Jyotnoor Kaur Sethi, Advocate
for the petitioner.

Ms. Jasleen Chahal, AAG, Haryana.

MANJARI NEHRU KAUL, J. (ORAL)

1. The petitioner in the instant (third) petition is seeking the concession of bail under Section 439 of the Cr.P.C. in case FIR No.0314 dated 25.06.2022 under Sections 294, 332, 34, 353 of the IPC (Sections 333, 186 of the IPC added lateron) registered at Police Station Kaithal City, District Kaithal.

2. On a pointed query put to the learned counsel for the petitioner, as to what was material change in circumstances which would warrant acceptance of his prayer made in the instant petition, since it is his third petition under Section 439 Cr.P.C., he submits that all the material witnesses, including the complainant, have been examined; independent witness, namely, Pala Ram, while stepping into the witness box did not support the case of prosecution, as a result of which, he was declared hostile. Learned counsel for the petitioner has placed on record the zimni orders of the case which is pending before

the Courts at Solan. Learned counsel, while drawing the attention of this Court to those zimni orders, has submitted that a perusal of the same reveal that the petitioner has been regularly appearing before the learned Trial Court and he has not been declared a proclaimed offender as was being initially apprehended on the last date of hearing by the learned State counsel. He has submitted that in the circumstances, further incarceration of the petitioner, who has now been in custody since 25.06.2022, would serve no useful purpose, as there was no likelihood of the trial concluding in near future.

3. Per contra, learned State counsel while opposing the prayer and submissions made by learned counsel for the petitioner, on instructions, has informed the Court that as on date there is only one case bearing FIR No.184 dated 15.04.2020 under Sections 147, 149, 451, 506 of the IPC registered at Police Station City Kaithal, against the petitioner which is pending trial. Learned State counsel has also brought to the notice of this Court that in one of the other cases which was registered against the petitioner i.e. FIR No.264 of 2011 under Section 398, 401, 483 of the IPC, Sections 25-54-59 of the Arms Act and Sections 4 and 5 of the Explosive Act, the petitioner was convicted by the learned Trial Court, however, presently the petitioner is on bail in the said case. Learned State counsel on instructions has informed the Court that the next date fixed before the learned Trial Court is 12.03.2024.

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

5. The petitioner has been in custody since 25.06.2022. One

of the material witnesses, who was an independent witness, while stepping into the witness box did not support the case of the prosecution as a result of which he was declared hostile. The trial would take considerable time to conclude as 10 prosecution witnesses still remain to be examined. In the facts and circumstances as enumerated hereinabove, this Court deems it fit to extend the concession of bail to the petitioner.

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

7. 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.

28.02.2024

Vinay

(MANJARI NEHRU KAUL)
JUDGE

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