

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

220

CRM-M-61860-2023

Date of decision: 31.01.2024

Rohit

.....Petitioner

Versus

State of Haryana

.....Respondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present : Mr. Sunil Goswami, Advocate for the petitioner.

Mr. Sanjeev Kumar, Addl. A.G., Haryana.

MANJARI NEHRU KAUL, J. (ORAL)

1. The petitioner is seeking the concession of bail under Section 439 of the Cr.P.C. in case FIR No.192 dated 14.05.2022 under Sections 25, 27, 54, 59 of the Arms Act, 1959 and Sections 307, 506, 201, 34 of the IPC (Section 201 of the IPC added lateron) registered at Police Station Sadar Rohtak, District Rohtak.

2. While drawing the attention of this Court to the allegations levelled in the FIR which has been annexed as Annexure P-1, learned counsel for the petitioner inter alia contends that the injured complainant had categorically stated that while he along with one other person was standing on the road, co-accused Sukhchain came to the spot along with two of his friends on a motorcycle, who were unknown to him, and started firing upon him with an intention to kill; the complainant on account of the attack fled towards the field and lay down on the ground to save himself. Learned counsel has submitted that in the FIR in question the complainant had categorically stated that the two assailants accompanying Sukhchain were unknown to him and furthermore there was no allegations much less by way of a whisper

levelled against the petitioner. However, strangely after two months of the occurrence in question on 18.07.2022 the injured complainant got recorded a supplementary statement under Section 161 of the Cr.P.C. wherein for the first time he named the petitioner as being one of the assailants who was accompanying co-accused Sukhchain. Not only this, he very strangely stated therein that the petitioner was well acquainted with him from before. Learned counsel has submitted that in case the petitioner was well known to the complainant it was highly abnormal as to why the complainant would not have named the petitioner at the first instance and would have waited for 02 months before nominating him as an accused and all this needed to be appreciated in the background of the contents of the FIR wherein the complainant had categorically stated that the two assailants accompanying co-accused Sukhchain were unknown to him. Learned counsel submits that the investigation in the case in hand is complete as not only challan stands presented but even charges were framed on 19.01.2024, however, till date only 01 prosecution witness out of the 37 has been examined and, hence, there is no likelihood of the trial concluding in the near future.

3. On a Court query as to whether the petitioner has any criminal antecedents, learned counsel for the petitioner has fairly submitted that one case was indeed registered against the petitioner under Sections 457, 380 of the IPC some years back, in which however, the petitioner was admonished and let off, being a juvenile. He has submitted that though he was also implicated in another case under the Arms Act, however, it is a matter of record that he had since been acquitted in the said case.

4. Per contra, learned State counsel while opposing the prayer made by learned counsel for the petitioner, on instructions, has not been able to dispute the submissions made by the counsel opposite that in the FIR in question neither was the petitioner named nor any suspicion raised qua his involvement; it was two months later the complainant had nominated the petitioner as being one of the two assailants who had attacked the complainant. Learned State counsel has also not disputed that the contents of the FIR and the supplementary statement of the complainant, recorded under Section 161 of the Cr.P.C. are at complete variance with each other qua the petitioner.

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

6. The petitioner was not initially named in the FIR and was named as an accused after 02 months of the occurrence in question. The trial will take considerable time to conclude. In the facts and circumstances as enumerated hereinabove, this Court deems it fit to extend the concession of bail to the petitioner, who has been in custody since 03.08.2022.

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

31.01.2024

Vinay

(MANJARI NEHRU KAUL)

JUDGE

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