

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

225

CRM-M-64477-2023

Date of decision: 14.03.2024

Vinod Kumar @ Manoj Kumar @ Kaka @ PawaPetitioner

Versus

State of PunjabRespondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present : Mr. Amandeep Singh Manaise, Advocate
for the petitioner.

Mr. Navdeep Singh, DAG, Punjab.

MANJARI NEHRU KAUL, J. (ORAL)

1. The petitioner in the instant (fourth) petition is seeking the concession of bail under Section 439 of the Cr.P.C. in case FIR No.102 dated 04.05.2019 under Sections 302, 341, 201, 148, 149 of the IPC registered at Police Station City Kapurthala, District Kapurthala.

2. Learned counsel for the petitioner inter alia contends that the petitioner has been in custody since 09.12.2019 and the trial has still not concluded. Learned counsel has submitted that since all the material witnesses stand examined, further incarceration of the petitioner would serve no useful purpose as there could be no apprehension of the petitioner tampering with material evidence or even trying to intimidate/influence the witnesses. He has further submitted that even otherwise as per the allegations levelled against the petitioner, he has not been attributed the fatal injuries on the person of the deceased and has only been attributed an injury on his right hand with a datar. Learned counsel while drawing the attention of this Court to the

FIR which has been annexed as Annexure P-1, has still further submitted that the petitioner was not named therein and he came to be nominated only in the supplementary statement made under Section 161 of the Cr.P.C. by the complainant on 04.05.2019. He submits that identically placed co-accused who had not been named initially in the FIR but nominated as accused subsequently on either the supplementary statements made by the complainant and on disclosure statement made by co-accused, had since been extended the concession of bail by this Court. In support, learned counsel has drawn the attention of this Court to Annexures P-5 to P-8.

3. Per contra, learned State counsel while opposing the prayer made by learned counsel for the petitioner, on instructions from ASI Rajinder Kumar, has not disputed the role attributed to the petitioner in the crime in question and also the factum of the petitioner having been named as an accused only in the supplementary statement made by the complainant on the following day of the occurrence in question. It has also not been disputed that the petitioner has been in custody since 09.12.2019 and all the material witnesses stand examined.

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

5. The petitioner has been in custody since 09.12.2019, in a case based on eye witness account. Concededly, the petitioner was not named in the FIR in question by the father of the deceased who witnessed the alleged crime and it was only later on when he recorded his statement under Section 161 of the Cr.P.C., he nominated the petitioner as being one of the persons who too assaulted the deceased.

Learned State counsel has not controverted that the petitioner has not been attributed any fatal injury on the person of the deceased. In the facts and circumstances as enumerated hereinabove and keeping in mind long incarceration of the petitioner, this Court deems it fit to extend the concession of bail to him as the trial would take some time to conclude.

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.

14.03.2024

Vinay

(MANJARI NEHRU KAUL)
JUDGE

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