

313 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-63589-2023
Decided on : 20.02.2024

Manoj Kumar @ Tota

..... Petitioner

Versus

State of Haryana

..... Respondent

CORAM : HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present : Mr. Saurabh Sharma, Advocate
for the petitioner.

Mr. Jasleen Chahal, AAG, Haryana.

Manjari Nehru Kaul, J.(Oral)

1. This is the petition filed by the petitioner seeking concession of regular bail in case FIR No.110 dated 06.03.2023 under Sections 302, 323, 34 IPC (Sections 379-B, 34 IPC and 25 of Arms Act added later on) registered at Police Station Parao District Ambala.

2. Learned counsel for the petitioner *inter alia* contends that it is a case rests on eyewitness account wherein following allegations were levelled in the FIR (Annexure P-1):

“Statement of Smt. Kamlesh Kumari, aged 38 years w/o Sh. Sanjay Kumar, resident of Sundar Nagar, Ambala Cantt. near Valmiki Mandir, Police Station Parao District Ambala.

It is stated that I am resident of above mentioned address and I have studied till 7th standard and I do household work. We are two sisters and one brother named Mano Ram, aged 35 years, who was a private yoga teacher. That yesterday on 05.03.2023 at about 3.00 PM in the noon Nikhil Dhawan s/o Krishan Kumar, Anshul s/o Shambhu Lal, Ashok s/o Amarnath, who has a meat shop near us and they had a fight with their neighbours. That my brother Mano Ram had made them understand as to why you are fighting and because of this, while keeping a grudge when my brother left from his house at about 9.30 pm and was passing by their meat shop, then Nikhil Dhawan, Anshul s/o Shambhu Lal and Ashok attacked my brother and said that we will teach you a less for interfering in a fight and Nikhil Dhawan hit my brother on left side of his chest with a knife and Anshul and Ashok pushed him down and gave him kick blows. That I heard the noise of the fight and came at the spot. Then Nikhil Dhawan hit his knife on the right side of my forehead. That my sister-in-law Sangita also came at the spot and the son of my uncle (Chacha) Surinder s/o Moti Ram also reached the spot. They all saved us from them else they would have given more injuries to my brother Mano Ram and myself. That my brother Mano Ram was taken by our neighbours in their vehicle to Civil Hospital, Ambala Cantt. for treatment and here the doctor checked my brother and declared him dead.”

Learned counsel for the petitioner has submitted that a perusal of the FIR reveals that the petitioner was neither named therein much less any suspicion raised qua his involvement in the

murder of Mano Ram. It has also been submitted that it is not even the case of the prosecution that the petitioner was present in the vicinity of the crime in question, however, strangely his name was nominated as an accused on the basis of a disclosure statement allegedly suffered by co-accused Nikhil and Ashok, who had allegedly inflicted the fatal injuries on the person of deceased. As per the disclosure statement made by the co-accused, the weapon of offence had been provided to the main accused by the petitioner. Learned counsel has submitted that the petitioner had no motive whatsoever to participate in the crime in question much less to provide the weapon of offence. It has been further submitted that the petitioner has clean antecedents as he is not involved in any other criminal case much less of the similar nature.

3. Per contra, learned State counsel while opposing the prayer made by learned counsel for the petitioner on instructions has not disputed that the petitioner was neither named in the FIR in question nor was any suspicion raised qua his involvement in the crime in question. She, on further instructions, has not disputed that the petitioner was nominated as an accused on the basis of a disclosure statement allegedly made by co-accused Nikhil and Ashok wherein yet again no role had been attributed to the petitioner of having even inflicted any injury on the person of the deceased, however, she has reiterated that the petitioner had provided the

weapon of offence to the co-accused Nikhil for committing the murder of the deceased.

4. On a pointed query put to the learned State counsel as to what motive did the petitioner have to participate in the crime in question, she on instructions, has informed the Court that there was some previous animosity between the prime accused and the complainant party and since the petitioner was a friend of the accused party, he provided the weapon of offence to the co-accused. Learned State counsel has further submitted that the next date of hearing fixed before the trial Court is 07.03.2024 when charges are likely to be framed.

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

6. The petitioner has been in custody since 08.03.2023. The investigation in the case in hand is complete as challan stands presented. The trial has not progressed as charges are yet to be framed.

7. In the facts and circumstances as enumerated hereinabove coupled with the fact that the petitioner has clean antecedents, this Court deems it fit to extend the concession of regular bail to the petitioner. 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.

8. 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.

20.02.2024
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(MANJARI NEHRU KAUL)
JUDGE

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