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225 **IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH**

CRM-M-58871-2024

Date of decision: 29.11.2024

Kamal Kumar

.....Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present: Mr. Gurjeet Singh Saini, Advocate for
 Mr. Lalit Mohan Chauhan, Advocate
 for the petitioner.

Mr. Amit Rana, Sr. DAG, Punjab.

MANJARI NEHRU KAUL, J. (ORAL)

1. The petitioner is seeking the concession of bail under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023 in case FIR No.138 dated 29.06.2023 under Sections 307, 427, 34 of the IPC and Sections 25, 27 of the Arms Act, 1959 (Section 302 of the IPC and Sections 29, 54, 59 of the Arms Act, 1959 added later on) registered at Police Station Ranjit Avenue, District Amritsar.

2. Learned counsel for the petitioner submits that the petitioner's false implication in the present case is evident from the fact that although it is a case based on eye witness account, however, neither was he named therein nor any suspicion raised qua his involvement in the murder of deceased Sahil Kumar. Learned counsel while drawing the attention of this Court to the allegations levelled in the FIR annexed as Annexure P-1, has further submitted that it was registered against unknown persons by the father of the deceased,



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who claimed to have got information about his son being attacked, by a friend of his deceased son. It has been submitted by the learned counsel that all the three material witnesses, including the two alleged eye witnesses Sohan Singh and Rohit while stepping into the witness box as PW2 and PW3 respectively, did not support the case of the prosecution during trial and did not identify the petitioner as being one of the two assailants, who fired the fatal shots at the deceased. In support, learned counsel has placed on record duly attested copies of the testimonies of both the two eye witnesses PW-2 Sohan Singh and PW-3 Rohit. It has also been submitted that the complainant while stepping into the witness box had categorically stated that he was not a witness to the occurrence in question. Learned counsel submits that in the aforementioned facts and circumstances, when the material witnesses had been examined and had been declared hostile during trial, further incarceration of the petitioner would serve no useful purpose as 30 prosecution witnesses still remain to be examined.

3. Per contra, learned State counsel while opposing the prayer and submissions made by learned counsel for the petitioner, on instructions from ASI Kawaljit Singh, has not disputed the custody period of the petitioner as well as the stage of trial; learned State counsel, on further instructions, has also not disputed that all the material witnesses in the present case stand examined and they had been declared hostile during trial. Learned State counsel still further submits that the next date of hearing fixed before the trial Court is 18.12.2024 when some more prosecution witnesses are likely to be examined. However, learned State counsel has reiterated the allegations



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levelled in the FIR which is annexed as Annexure P-1, and stands reproduced hereinunder:

“Statement of Sunil Kumar, son of Ram Pal, resident of House 2/182, Gali Gurudware Wali, Chowk Bille Wala, Mohkampura, Amritsar, aged 50 years, Mobile No. 7528945056 I am a resident of the above-mentioned address and work at B.H. Fabric cloth shop, Katra Jaimal Singh, Amritsar, in Trolley Wale Bazar. I have a son, Sahil Kumar, who does D.J. repair work, and because of this, my son Sahil Kumar often comes home late. On 29/6/2023, at around 1:30 AM, I received a call from my son Sahil Kumar's friend, stating that Sahil Kumar, along with his friends Kabir Singh, Sohan Singh, Amanpreet Singh, and Jack, had gone for dinner near the railway station in Amritsar in Kabir Singh's car. While returning and as they reached near the Sarovar Hotel Green Avenue, two persons on motorcycle came behind their car. From the opposite side of the car driver, the pillion rider of the motorcycle fired five shots toward the car, hitting it. One of the shots cracked the back window and struck Sahil Kumar in the left flank, seriously injuring him. He was admitted to Sri Guru Nanak Dev Hospital for treatment. Therefore, I have come to Guru Nanak Dev Hospital with my family, where my son Sahil is under treatment, and Sahil's operation is currently underway. Two unknown people's came on motorcycle and fired at Sahil and his friends with the intention to kill. Please take necessary legal action against these unidentified individuals. Statement Acknowledged Sd/ Warish Masih, Police Station Ranjit Avenue, Amritsar City Sd/- Sunil Kumar, 29/6/2023.”



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4. On a pointed query put to the learned State counsel as to whether the petitioner has any previous criminal antecedents, he, on instructions has replied in the negative.

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

6. The petitioner has been in custody since 09.07.2023. The two alleged eye witnesses while stepping into the witness box did not support the case of the prosecution. The petitioner is not stated to be involved in any other criminal case. The trial is likely to take considerable time to conclude as 30 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.

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.

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.

29.11.2024
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(MANJARI NEHRU KAUL)
JUDGE

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