



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

235

CRM-M-47812-2024

Date of decision: January 27th, 2025

Naresh Kumar alias Dhakal

.....Petitioner

Versus

State of Haryana

.....Respondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present: Mr. Raman Chawla, Advocate
for the petitioner.

Mr. Yuvraj Shandilya, Assistant Advocate General,
Haryana.

Mr. Ajay Vijarania, Advocate
for the complainant.

MANJARI NEHRU KAUL, J. (ORAL)

Petitioner is seeking the concession of bail under Section 439 of the Code of Criminal Procedure, 1973, in FIR No.452 dated 04.08.2022 under Sections 148, 149, 365, 302, 120-B, 364, 216 of the IPC registered at Police Station Civil Lines Hisar.

2. Learned counsel for the petitioner submits that the instant case is based on an alleged eyewitness account. When the FIR in question was registered as per the complainant, who allegedly witnessed the crime in question, no suspicion much less by way of a whisper was raised qua the involvement of the petitioner in the crime in question, which took place on 03.08.2022. Thereafter, the complainant made as many as three supplementary statements and in not even one of the supplementary statements did he name the petitioner as being a

participant in the alleged occurrence. Subsequently, on 20.11.2023, one co-accused Pardeep was arrested and during his interrogation, the name of the petitioner allegedly surfaced and co-accused Pardeep, as per the case of the prosecution, suffered a disclosure statement nominating the petitioner as also being one of the participants in the occurrence, wherein Lalit (hereinafter referred to as 'deceased') was assaulted to death. Learned counsel has submitted that it is, therefore, evident that a totally false and fabricated case has been planted upon the petitioner; the presence of the complainant, in the aforementioned circumstances, at the place of occurrence also is questionable because had he been actually a witness to the occurrence, the complainant would have at least mentioned the name of the petitioner in one of the three supplementary statements, which were recorded preceding the disclosure statement made by co-accused Pardeep on 20.11.2023. It has been further argued by the learned counsel that the petitioner has now been in custody since 23.11.2023; he has no previous criminal antecedents; the sole material witness in the present case i.e. the complainant already stands examined and hence, petitioner's further incarceration would serve no useful purpose as 41 prosecution witnesses still remain to be examined.

3. *Per contra*, learned State counsel assisted by learned counsel for the complainant, has vehemently opposed the prayer and submissions made by the counsel opposite. The learned State counsel, on instructions, has not disputed the custody period of the petitioner nor has he disputed that as far as the petitioner is concerned, the sole material witness i.e. the complainant already stands examined.

However, it has been asserted by the learned State counsel as well as the

counsel for the complainant that complainant, while stepping into the witness box, had supported the case of the prosecution and had identified the petitioner as being present along with the co-accused and having also participated in the assault, which was carried upon the deceased.

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

5. The petitioner has been in custody since 23.11.2023. The sole material witness i.e. the complainant, as not disputed by the learned State counsel, has already been examined. The petitioner was nominated as an accused pursuant to a disclosure statement made by co-accused after more than a year of the alleged occurrence. As not disputed by the State and the learned counsel for the complainant, neither the petitioner was named in the FIR which is based on eyewitness account nor named in any of the three supplementary statements recorded by the complainant prior to the disclosure statement of co-accused Pardeep. Hence, in the facts and circumstances as enumerated hereinabove, the instant petition is allowed. The petitioner be admitted to bail to the satisfaction of the trial Court/Duty Magistrate concerned.

6. 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.

January 27th, 2025
Puneet

(MANJARI NEHRU KAUL)
JUDGE

Whether speaking/reasoned : Yes

Whether reportable : No