



**240 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CRM-M-51453-2024

Date of Decision: 23.01.2025

KUNDAN KUMAR

...Petitioner

Vs.

STATE OF PUNJAB

...Respondent

CORAM:- HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present: Mr. Ravi Malhotra, Advocate for the petitioner.

Mr. Navdeep Singh, DAG, Punjab.

MANJARI NEHRU KAUL, J. (Oral)

1. The petitioner is seeking the concession of regular bail under section 483 of BNSS in case FIR number 88 dated 26.07.2022, under sections 302, 34 of IPC, 1860, registered at Police Station, Meherbaan, District Ludhiana.

2. Learned counsel for the petitioner submits that the petitioner's false implication in the instant case is evident from the fact that while stepping into the witness-box, all the 03 material witnesses including the complainant had not alleged anything against the petitioner muchless by way of whisper, rather the complainant reiterated that the murder of his nephew had been committed by some unidentified persons. Learned counsel for the petitioner has also submitted that the present case hinges on circumstantial evidence and there is no direct motive attributed to the petitioner to have conspired with the co-accused to carry out the murder in question. It is further submitted that even though the alleged occurrence is



stated to have taken place on 25.07.2022, it was only on 11.11.2023, that the petitioner came to be nominated as accused in the present case which further creates a big question mark about the version put forth by the prosecution while submitting the challan in the present case. He has still further argued that as per the case of the prosecution, PW-Noor Alam had over heard the conversation between the co-accused Manzoor Alam and other co-accused Mohd. Amanullah qua their involvement in the crime in question on account of some property dispute, however, while stepping into the witness-box both these PWs as well as another witness of extra judicial confession, PW Roshan Aara, were declared hostile by the prosecution. Learned counsel has therefore, prayed that in view of the aforementioned facts and circumstances, the link evidence to connect the petitioner to the alleged crime is missing for which the petitioner cannot be made to languish in custody for an indefinite period, more so when only 04 prosecution witnesses out of the 14 cited have been examined and the possibility of the trial concluding in the near future looks remote.

3. *Per contra*, learned State counsel while opposing the prayer and submissions made by learned counsel for the petitioner, on instructions, has not disputed that the FIR in question which was registered against unidentified persons and no suspicion was made muchless by way of a whisper *qua* involvement of the petitioner in the alleged murder. Learned State counsel has not disputed that all the material witnesses in the present case stand examined and 02 of those material witnesses were indeed declared hostile by the prosecution during trial. The custody period of the



petitioner, who has been inside since 11.11.2023 has also not been disputed.

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

5. The present case is based on circumstantial evidence, which has not been disputed by learned State counsel; complainant while stepping into the witness-box did not level any specific allegations against the involvement of the petitioner in the alleged murder. Furthermore both the material witnesses including witness of extra judicial confession did not support the case of the prosecution, as a result of which these witnesses were declared hostile. Hence, in the given circumstances, in case the petitioner is admitted on bail, there can be no apprehension of the petitioner tampering with evidence or intimidating/influencing the witnesses.

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.

7. 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.

(MANJARI NEHRU KAUL)
JUDGE

23.01.2025

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