



IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

239

CRM-M-59239-2024

Date of decision: 20.01.2025

Tahir

.....Petitioner

Versus

State of Haryana

.....Respondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present : Mr. Rajiv Kumar Saini, Advocate
for the petitioner.

Mr. Rajat Gautam, Addl. A.G. Haryana.

MANJARI NEHRU KAUL, J. (ORAL)

1. The petitioner in the instant (second) petition is seeking the concession of bail under Section 439 of the Cr.P.C. in case FIR No.49 dated 08.03.2018 under Sections 307 of the IPC, Sections 25 of the Arms Act, 1959 and Section 13(2) of the Haryana Gau Sanrakshan and Gau Samvardhan Act, 2015 registered at Police Station Chhapar, District Yamuna Nagar.

2. On the last date of hearing, the following order was passed:-

“At the outset, learned State counsel has submitted that no doubt, the injury inviting the mischief of Section 307 of the IPC has not been attributed to the petitioner but to co-accused Salman, however, after he petitioner was granted the concession of bail, he had absconded on 24.02.2023 and was re-arrested on 23.04.2024. It has been further submitted, on instructions from ASI Rajinder, that while the petitioner was absconding, he was booked in another criminal case for offence under Section 307 of the IPC. Learned State counsel submits that there is every possibility that in case the petitioner is extended the



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concession of bail, he could yet again misuse the said liberty and be involved in some other criminal cases leading to further delay in the conclusion of the trial.

On a pointed query put to the learned State counsel as to whether the injured witness and other material witnesses have been examined, he, on instructions, has replied in the negative and submitted that the next date fixed before the trial Court is 20.12.2024 when the injured/material witness Sukhdev is likely to be examined.

In the circumstances, adjourned to 20.01.2025.”

3. Learned counsel appearing for the petitioner submits that it is a matter of record that despite issuance ofailable/non-ailable warrants to secure the presence of the prosecution witnesses as many as on three dates of hearing, they have continued to absent themselves before the learned Trial Court. A prayer has, therefore, been made to enlarge the petitioner on bail subject to any stringent conditions which may be imposed, as possibility of the trial concluding in the near future in the aforementioned facts and circumstances, seems unlikely.

4. Per contra, learned State counsel while opposing the prayer made by learned counsel for the petitioner, on instructions, has not disputed the custody period of the petitioner nor has he disputed the stage of trial and the factum of the prosecution witnesses not appearing before the learned Trial Court on as many as three continuous dates of hearing despite issuance ofailable/non-ailable warrants to secure their presence. Learned State counsel, however, has drawn the attention of this Court to the allegations levelled in the FIR annexed as Annexure P-1, which stands reproduced hereinunder:-

“The contents of the complaint are like that- Statement of Sukhdev Singh s/o Balbir Singh, caste Jaat, resident of



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Kalanaur, Police Station Sadar Yamuna Nagar, District Yamuna Nagar. It is submitted that I am the resident of the aforesaid address. I am the member of Gau Raksha Dal, Yamuna Nagar. Yesterday night at about 10:00 PM, I was informed by the informer that Mustafa s/o Ali Hasan, resident of Lapra, P.S. Yamuan Nagar along with his companions will load the cows stealthily in his vehicle Mohindra Pick-up from the side of Ambala and would go from Lapra to U.P. via police Station Chappar. On this information, I along with Dharmender Bhardwaj s/o Sh. Ram Kumar, resident of Dushani, Rajesh s/o Inder Raj, resident of Dushani and Sunil s/o Roop Lal, resident of Shadipur, P.S. Sadar and others sat in own vehicle Gau Raksha No.PB-11BE-9691, Marka Mohindra Scorpio and came to the under construction Toll Tax which falls in the area of Police Station Chappar and thereafter started barricading. At about 5/5:30 AM, one vehicle marka Mohindra Pickup which registration number was written in Urdu language and could not be read, was signaled to stop, however, the driver of the said vehicle namely Mustafa accelerated the Vehicle and the three persons who were sitting behind started pelting the stones and the person who was sitting beside the driver seat started firing shots upon us. When we on chasing we reached near Tajili Stadium at village Gaudholi, our vehicle was hit on reversing the alleged vehicle. Thereafter, one person alighted from the conductor's side and fired shots upon me with country made pistol which hit on my neck. I do not know the name of that person, however, I can identify him if he is come in front of me. Mustafa and his accomplices fled away from the spot in their vehicle. The aforesaid persons have fired shots with an intention to kill us. A strict legal action be taken against them. I have got recorded my statement and I find the same to be correct after hearing out the same.”

5. It has also been submitted by the learned State counsel that the petitioner is involved in 14 other criminal cases with conviction in 01 case.
6. I have heard learned counsel for the parties and perused the material placed on record.
7. The petitioner after being extended the concession of bail

initially no doubt absconded, however, he was subsequently arrested on

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23.04.2024. The petitioner even as per the case of the prosecution was not driving the vehicle in question at the time of the alleged occurrence but was accompanying co-accused Mustafa and Salman, who were on the wheels. The possibility of the trial concluding in the near future looks remote in view of the repeated absence of the prosecution witnesses. In the facts and circumstances as enumerated hereinabove, this Court deems it fit to extend the concession of bail to the petitioner.

8. 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.

9. 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.

20.01.2025

Vinay

**(MANJARI NEHRU KAUL)
JUDGE**

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