

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

**CRM-M-23415-2017
Date of decision :23.10.2017**

Nishawar Singh

..... Petitioner

Versus

State of Punjab

..... Respondent

CORAM : HON'BLE MR.JUSTICE H.S. MADAAN

Present : Mr. R.K. Dadwal, Advocate
for the petitioner.

Mr. Kirat Singh Sidhu, DAG, Punjab.

H.S. MADAAN, J.

This application for grant of regular bail has been filed by petitioner – Nishawar Singh an accused in FIR No.27 dated 05.05.2014 under Section 382 IPC later on added Sections 379, 411, 120-B, 212, 216 IPC registered with Police Station Budhalada, District Mansa, Punjab.

Briefly stated facts of the case as per prosecution story are that FIR in this case was registered at the instance of complainant – Vikas Kumar son of Ashhar Singh resident of Ward No.13 near OBC Bank, Bareta aged about 36 years a liquor contractor having liquor bar at village Rally, who in his statement recorded to the police stated that on 04.05.2014 at

about 9:00 p.m. his servant on liquor vend had informed that 4 / 5 unidentified persons with muffled faces had arrived there, he saw them through small window and found that two of them were on motorcycle, one such person came to him asking for bottle of wine and when he was in the process of picking it up, the other persons broke the gate and forcibly entered the room; that one of them pointed pistol on his head threatening that if he made any noise then he would be killed; that then that person forcibly took away ₹4,600/- from cash counter and while leaving they hit complainant on head with some weapon; that prior to that incident on 03.05.2017 at about 9:00 p.m. 4 / 5 persons with their faces covered had looted ₹9,000/- from liquor vend of complainant at village Dhalewa and 30 minutes prior to that incident had looted ₹17,180/- from their liquor vend at village Kulana; that prior to 30 minutes earlier to that 4 / 5 such persons had looted ₹7,980/- at gun point from liquor vend at village Saidewala. He sought taking of action in the matter.

After registration of the FIR the case was investigated, accused was arrested in this case and he is in custody since 13.09.2016. He had moved an application for grant of regular bail in the Court of Sessions but was unsuccessful there, as such, he has come to this Court seeking the similar relief.

Notice of the bail application was given to the State.

I have heard learned counsel for the parties, besides going through the record and I find that no ground to grant regular bail to the petitioner is made out. The allegations against the petitioner are very serious and grave of indulging in robbery along with his co-accused. He had been declared as proclaimed offender in this case and he was arrested

on 13.09.2016. He is said to be involved in sever other criminal cases, which are as follows:-

- i. *FIR No. 68 dated 07.09.2016 under Section 353, 186, 332, 224, 225, 212, 216, 148, 149 IPC and under Section 25 of Arms Act registered with Police Station Dharamgarh.*
- ii. *FIR No.30 dated 08.05.2014 under Sections 399, 402 IPC and under Section 25, 54, 59 of Arms Act registered with Police Station Sadar Budhlada.*
- iii. *FIR No.42 dated 11.09.2016 under Section 22, 25, 61, 85 NDPS Act registered with Police Station Budhlada.*
- iv. *FIR No.96 dated 23.11.2013 under Section 279, 337, 338, 427 IPC registered with Police Station Dharamgarh.*
- v. *FIR No.128 dated 26.07.2013 under Section 61,1,14 of Excise Act registered with Police Station Lehra.*

That means he is a habitual criminal, the very fact that in terms of FIR No.68 dated 07.09.2016 for offences under Sections 353, 186, 332, 224, 225, 212, 216, 148, 149 IPC and under Section 25 of Arms Act registered with Police Station Dharamgarh District Sangrur when the police party had apprehended him being a proclaimed offender he was forcibly got released by the associates goes a long way in proving his criminal antecedents. There are reasonable chances of his absconding and trying to tamper with the prosecution evidence if released on bail.

Learned counsel for the petitioner has stated that he is not named in the FIR and was nominated during investigation only. The police is falsely involving him in the criminal case. I do not find much weightage in these arguments. Merely because he is not named in the FIR cannot put

him at some advantage while asking for bail. The purpose of recording FIR is only to set criminal machinery into motion and it is only during investigation that the names of the culprits and the part played by them in the incident comes out to be there. The allegations regarding him having being framed in this case by the Police on account of enmity are quite vague and superfluous. The accused may take all such pleas during trial which could be considered by the trial Court if proved on record.

The trial against him is going on and likely to be concluded in near future. No ground to grant him regular bail is made out, as such, the petition stands dismissed.

23.10.2017

Gaurav Sorot

**(H.S. MADAAN)
JUDGE**

1. Whether reportable? **No**
2. Whether speaking / reasoned? **Yes**