

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

**CRM-M-28986-2019 (O&M)
Date of Decision:04.09.2019**

Arshdeep Singh @ Kaka

... Petitioner

Versus

State of Punjab

... Respondent

CORAM:- HON'BLE MR.JUSTICE TEJINDER SINGH DHINDSA.

Present:- Mr. HPS Sidhu, Advocate for the petitioner.

Mr. APS Gill, AAG, Punjab.

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TEJINDER SINGH DHINDSA, J. (ORAL)

This is the second petition preferred by the petitioner under Section 439 Cr.P.C. seeking regular bail pending trial in FIR No.136, dated 11.05.2015, under Sections 307/382/34 IPC and Sections 25 and 27 of the Arms Act, registered at Police Station Patti, District Tarn Taran.

Counsel for the parties have been heard.

Petitioner had earlier approached this Court seeking regular bail in terms of filing CRM-M-13432-2016 and which reads as follows:

“Petitioner seeks benefit of regular bail pending trial in case FIR No.136 dated 11.05.2015, under Sections 307, 382, 34 of Indian Penal Code and Sections 25/27 of Arms Act, registered at Police Station Patti, District Tarn Taran.

Counsel for the parties have been heard.

FIR came to be registered on the statement of Aanchal Sharma in relation to an occurrence that took place on 11.05.2015.

Complainant stated that she was a Lecturer in Physics in a school at Tarn Taran and as per routine after closure of the school while she was returning back to her residence and had got down from a bus, two assailants on a motorcycle with covered faces accosted her. A purse containing Rs.2000/- cash and one mobile phone make Micromax was snatched. Further allegation was that the person who was pillion rider had shot with a firearm and the bullet hit the complainant on the left side of the abdomen.

As per prosecution version, on 19.06.2015 during the course of a nakabandi, petitioner was apprehended and a fake pistol was recovered from him and accordingly FIR No. 192 under the provisions of the Arms Act was registered. Petitioner is sought to be implicated even in the present case on the basis of his own disclosure statement suffered before the Investigating Agency in which he has confessed of having robbed Aanchal Sharma complainant along with one Gurmukh Singh. Petitioner is stated to have been arrested in the present case w.e.f. 20.06.2015.

During the course of arguments, it has gone uncontroverted that in a test identification parade having been done, the complainant Aanchal Sharma has identified Gurmukh Singh to be the person pillion riding the motor cycle on the date of occurrence i.e. 11.05.2015.

It would be pertinent to take note that even as per version of the complainant, the firearm injury is attributed to the pillion rider.

Co-accused Gurmukh Singh having evaded the process of law has been declared a proclaimed offender.

However, insofar as the present petitioner is concerned, challan qua him stands presented on 17.09.2015 and even charges have been framed on 28.03.2016.

Counsel appearing for the petitioner also raised the submission that in the entire challan document/final charge-

sheet submitted by the Investigating Agency under Section 173 Cr.P.C., there is no opinion of the doctor on the basis of which offence under Section 307 IPC has been cited.

In the totality of the circumstances, without making any observations on merits and keeping in view the length of incarceration already suffered, petitioner is held entitled to the benefit of bail.

Petition is allowed. Petitioner be enlarged on bail subject to satisfaction of the Chief Judicial Magistrate/Duty Magistrate, Tarn Taran.

Disposed of.”

Apparently, the petitioner absented himself from the trial proceedings in the year 2017.

Thereafter, petitioner was arrested on 20.01.2019 in FIR No.10, dated 20.01.2019, under Section 174-A IPC, registered at Police Station City Patti.

In the afore noticed FIR No.10, petitioner had been admitted to bail in the light of order dated 01.05.2019 appended and placed on record at Annexure P-3.

Even though, learned State counsel has vehemently opposed the instant petition by contending that the petitioner had been declared a proclaimed offender yet in view of the reasoning adopted by this Court while granting benefit of bail to the petitioner earlier in point of time on 24.05.2016 and coupled with the fact that he has now faced incarceration for a period of almost 8 months after his arrest i.e. on 20.01.2019, petitioner is held entitled to the benefit of bail.

Petition is allowed.

Petitioner be enlarged on bail subject to satisfaction of the trial

Court/Duty Magistrate concerned subject o his not being required in custody in any other matter.

Disposed of.

04.09.2019

harjeet

(TEJINDER SINGH DHINDSA)
JUDGE

- i) Whether speaking/reasoned? Yes/No
- ii) Whether reportable? Yes/No