

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

**CRM-M No.33822 of 2019
Decided on: 27.08.2019**

Vivek Mahajan @ Kuka Mahajan

....Petitioner

Versus

State of Punjab

....Respondent

CORAM: HON'BLE MR JUSTICE ARVIND SINGH SANGWAN

Present : Mr. P.S. Ahluwalia, Advocate
for the petitioner.

Mr. Jagmohan Ghuman, DAG, Punjab.

ARVIND SINGH SANGWAN, J. (Oral)

Prayer in this petition is for grant of regular bail to the petitioners under Section 439 of the Code of Criminal Procedure (in short 'Cr.P.C.') in FIR No.199 dated 02.11.2018, for offence punishable under Sections 307, 395, 148, 149 of the Indian Penal Code (in short 'IPC') and 25/27 of the Arms Act, 1959 and 13(3) and 67 of the Punjab Gambling Act, 1867, registered at Police Station Division No.4, Police Commissionerate Jalandhar, District Jalandhar.

Counsel for the petitioner has submitted that it is a case of version and cross-version and in FIR No.199 dated 02.11.2018, 06 persons are nominated as accused, out of which 02 accused persons namely Abhinandan @ Nandu and Rajat @ Nona were arrested later on, after the challan was presented against 04 other accused namely Taran Gill @ Lalli, Sahil @ Masi, Amit Kumar @ Shanga and Nitin Arora @

Delu. It is further submitted that in the cross-version case where the petitioner is one of the accused along with 03 other co-accused namely Ranjit Singh Padda, Surjit singh @ Rocky and Rishu Sharma, the allegations are that on 02.11.2018, the police received a secret information that the petitioner and others are involved in illegal gambling in A.C. Market and the opposite party i.e. Sahil @ Masi and others had gone there to commit a robbery and loot the money. In that process, both the parties have fired gun-shots against each other with intention to kill. Lalli had fired on the petitioner Vivek Mahajan @ Kuka Mahajan but he saved himself and thereafter, the petitioner had fired on Sahil @ Masi, which hit him on his knee.

Counsel for the petitioner has further argued that the challan has been presented against second party under Sections 307, 395, 148, 149 IPC read with Section 25/27 of the Arms Act as the police during the investigation found that an amount of Rs.3.05 lacs was looted from the petitioner's side. It is further submitted that in the cross-version, the FIR is presented under Sections 307, 148, 149 IPC and 25 of the Arms Act. It is also submitted by counsel for the petitioner that it will be a debatable issue to be decided during the course of trial whether the petitioner acted in self-defence and is entitled to protection under Section 97 IPC.

Counsel for the petitioner has also argued that the co-accused Rishu Sharma has already granted the concession of regular bail by the Sessions Judge vide order dated 04.06.2019 and from the petitioner's side only the petitioner is in custody. It is also submitted that in the other version, the co-accused Abhinandan is in custody. It is

further argued that the petitioner is in custody since 23.09.2018; challan stands presented and his custodial interrogation is no more required.

Counsel for the State, on instructions from ASI Manjinder Singh, has not disputed that fact that the petitioner is in custody for the last 05 months and 04 days and apart from this, he is involved in another FIR in the Gambling Act in which he is on bail.

Without commenting anything on merits of the case, considering the fact that in the second version challan has been presented against the accused persons under Sections 307 and 395 IPC as per the allegations that they had come to loot the gambling money and when Sahil @ Masi opened a fire upon the petitioner, then he in his self-defence, also fired at him, which hit on his knee; the custodial interrogation of the petitioner is no more required and the conclusion of the trial is likely to take some time, this petition is allowed and the petitioner is directed to be released on regular bail subject to his furnishing bail/surety bonds to the satisfaction of the trial Court/Duty Magistrate/Illaqa Magistrate concerned.

However, it will be open for the prosecution to apply for cancellation of bail of the petitioner, in case he is found involved in any other case or misusing the concession of bail, in any manner.

(ARVIND SINGH SANGWAN)
JUDGE

27.08.2019
yakub

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