

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

Criminal Misc.-M No.45884 of 2021 (O&M)

Date of Decision: December 21, 2021

Manoj Kumar @ Manoj Kumar Malhotra

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE MANOJ BAJAJ

Present: Mr.Jasmeet Singh Ghuman, Advocate,
for the petitioner.

Mr.Luvinder Sofat, AAG, Punjab.

MANOJ BAJAJ, J. (Oral)

Petitioner has filed this petition under Section 439 Cr.P.C. for grant of regular bail, pending trial in case FIR No.57 dated 26.08.2021, under Section 307 IPC, 1860 and Section 27 Arms Act, 1959, registered at Police Station, City Raikot, District Ludhiana Rural, who is in custody since his arrest on 13.09.2021.

The contents of the FIR, as noticed by the Additional Sessions Judge, Ludhiana in his order dated 08.10.2021, while dismissing the bail application of the petitioner, are as under:-

“The present case has been registered at the instance of Kishan Lal on the averments that during night drainage pipe was damaged. On checking in CCTV camera, they come to know that drainage pipe was broken by Manoj Kumar Malhotra and one unidentified person. On 26.08.2021, he alongwith his son Chander Kumar went to the house of Manoj Kumar Malhotra for making the complaint and reached in front of his house. They made conversation regarding breaking

of drainage pipe. It was 9:00 a.m. Manoj Kumar became angry and he took out revolver from his pocket and made fire shot which hit on his left thumb. He made another fire shot which hit on his left hand little finger. He made third fire arm shot which hit on the earth and thereafter hit on his left foot thumb. Chander Kumar took 'danda' from the street and gave blow on the right arm of Manoj Kumar. His revolver fell down. With these allegations, the present case under section 307 IPC and 27/54/59 Arms Act was registered."

Learned counsel for the petitioner has argued that the complainant suspected that the drainage pipe installed at his house was damaged by the petitioner and, therefore, he confronted the petitioner by entering in his house, and assaulted him, resulting grievous injury to the petitioner. In this regard, he has invited the attention of the court to the photographs of the petitioner showing injuries on his forearm and further submitted that a cross case was also registered through DDR No.37 dated 06.09.2021 (Annexure P-2) against the complainant. He submits that the petitioner was compelled to use his weapon in order to save his life and the alleged gun shot injuries suffered by the complainant are on his non-vital part of the body, i.e., the left thumb and the foot. According to the learned counsel, the investigation of the case is complete, therefore, the petitioner be released on bail.

On the other hand, learned State counsel, assisted by ASI Payara Singh, has opposed the prayer, but does not dispute this fact that the petitioner also suffered grievous injury in the said occurrence. He states that indeed the investigation of the case is complete and final report has been filed on 10.12.2021. According to him, the case is yet to be committed to the court of sessions for trial.

After hearing the learned counsel for the parties, considering the above background and the fact that the trial is yet to commence, this court is of the opinion that the possibility of conclusion of trial in near future is extremely bleak. The material witnesses are either the complainant or the police officials and at present there does not seem to be any possibility of their being won over, therefore, the further detention of the petitioner behind the bars would not serve any useful purpose.

Resultantly, without meaning any expression of opinion on the merits of the case, the petition is allowed and it is ordered that the petitioner be released on regular bail subject to his furnishing requisite bail bonds/surety bonds to the satisfaction of the trial Court/CJM/Duty Magistrate, Ludhiana.

December 21, 2021
ramesh

(MANOJ BAJAJ)
JUDGE

Whether speaking/reasoned
Whether Reportable:

Yes/No
Yes/No