

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

CRM-M-5382 of 2022 (O&M)

DECIDED ON:19th December, 2022

Nitin Kumar

.....PETITIONER

VERSUS

State of Punjab

.....RESPONDENT

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN.

Present: Mr. T.P.S. Tung, Advocate for petitioner.

Mr. Arun Luthra, DAG Punjab.

AVNEESH JHINGAN, J (ORAL)

This is second petition seeking regular bail in case of FIR No.204 dated 17.9.2020 under Sections 307 IPC, 1860 and Section 25 of Arms Act, 1959 registered at Police Station Nangal, District Rupnagar, (Sections 302, 120-B, 34 IPC, 1860 added lateron).

Earlier petition was dismissed as withdrawn on 10.11.2021 with liberty to revive the prayer at a later stage.

The brief facts are that the FIR was registered at the instance of retired Subedar Major Dilbagh Singh. The allegations are that on 17.9.2020, two unidentified persons came on motor cycle with muffled faces. The pillion rider fired two-three shots from the pistol which hit Anil Kumar, son of the complainant. Pillion rider was identified as Harpreet Singh alias Harry. During investigation, petitioner-Nitin Kumar was nominated as the person driving the motor cycle at the time of incident. At his instance mobile belonging to co-accused Harpreet Singh and the motor cycle allegedly used in the incident was recovered alongwith a country made pistol.

Learned counsel for the petitioner submits that the petitioner has falsely been implicated. He was not present at the spot. His name surfaced in a disclosure statement. He further relied upon the fact that as per the FSL report, the weapon recovered at the instance of petitioner was not the one used in the incident. He is in custody since 21.9.2020 and is not involved in any other case.

Learned State counsel has filed affidavit dated 21.11.2022, annexing the FSL report. He on instructions from ASI Balram opposes the prayer. However, he is not disputing the fact that the weapon recovered at the instance of petitioner as per FSL report was not the one from which shot were fired at the time of incident. He fairly submits that the fact that the petitioner is not involved in any other case.

Without commenting upon the merits of the case, considering that the name of the petitioner surfaced in a disclosure statement, he has no criminal antecedents, weapon recovered at his instance in view of FSL report *prima-facie* does not connect him with the incident for which FIR was registered, though investigation is complete conclusion of trial is likely to take time, no further recovery is to be made, bail is granted to the petitioner on furnishing surety bonds to the satisfaction of the Chief Judicial Magistrate/Duty Magistrate concerned.

The petition is allowed.

It is clarified that the observations made hereinabove shall not be construed as an expression of opinion on the merits of the case.

Since the main case has been decided, the pending application, if any is rendered infructuous.

19th December, 2022

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(AVNEESH JHINGAN)
JUDGE

<i>Whether speaking/reasoned</i>	<i>Yes</i>
<i>Whether reportable</i>	<i>No</i>