

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

218

CRM-M-8241-2022

Date of Decision: 17.11.2022

Davinder Singh @ Peter

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present: Mr. Bhupinder Ghai, Advocate, for the petitioner.

Mr. Siddharth Attri, AAG, Punjab,
assisted by ASI Sukhwinder Singh.

GURVINDER SINGH GILL, J. (Oral)

1. The petitioner has approached this Court seeking grant of regular bail in respect of a case registered against him vide FIR No.37 dated 09.03.2015 at Police Station Moga City, District Moga, under Sections 302/392/34 IPC and Sections 25/54/59 of the Arms Act.
2. The FIR was lodged at the instance of Sanjeev Kumar, wherein it has been alleged that on 09.03.2015, he had gone to the shop of Deepak Grover in connection with some domestic work. After closing the shop, he and Deepak Grover sat on a scooter in order to return home. Deepak Grover was carrying a black coloured bag containing cash and other documents and at that point of time, 4 persons came there and attempted to snatch the bag from Deepak Grover. One of them took out a revolver.

Another one told him to fire in case Deepak did not hand-over the cash

bag. Upon which, the person holding the revolver fired at Deepak Grover hitting him on his chest. Thereafter, when the said persons tried to run away, the complainant was able to nab Mandeep Kumar, while the remaining managed to run away. It is further the case of prosecution that the aforesaid Mandeep Kumar disclosed the names of his companions as Davinder Singh @ Peter (petitioner), Prabhdeep Singh and Sukhwinder Singh @ Sunny.

3. Learned counsel for the petitioner has submitted that he was never ever caught at the spot and has been nominated on the basis of a disclosure statement made by co-accused Mandeep Kumar, which would hardly carry any evidentiary value. It has further been submitted that in any case when the complainant Sanjeev Kumar as well as eye-witness Sunil Kumar were examined during the proceedings of trial, they did not support the case of the prosecution.
4. Opposing the petition, learned State counsel has informed that the petitioner is a habitual offender having been involved in 3 other cases and stands convicted in 2 cases. Learned State counsel has, however, informed that the petitioner as on date has been behind bars since the last about 4 years & 9 months and that as on date out of cited 13 PWs, 9 PWs have been examined.
5. This Court has considered rival submissions.
6. The petitioner has been nominated on the basis of disclosure statement made by co-accused Mandeep Kumar. During the proceedings of trial, the complainant – Sanjeev Kumar stepped into witness-box as PW-3, wherein he did state that one of the 4 accused, namely, Mandeep Kumar

was apprehended at the spot and he disclosed the names of the remaining 3 accused as Davinder Singh @ Peter (petitioner), Prabhdeep Singh and Sukhwinder Singh @ Sunny, but he categorically stated that he does not identify the accused present in the Court to be said persons, who had attacked the deceased. Eye-witness Sunil Kumar was examined as PW-4, who has completely resiled from his statement and has stated that on account of cover of darkness, he could not identify the person apprehended by Sanjeev Kumar. The aforesaid statements would show that the material witnesses have not supported the case of the prosecution. Though the petitioner has a chequered record, but having regard to the long custody undergone by the petitioner i.e. 4 years & 9 months, further detention of the petitioner will not serve any useful purpose as the conclusion of trial will take some time. The petition, as such, is accepted and the petitioner is ordered to be released on regular bail on his furnishing bail bonds/surety bonds to the satisfaction of learned trial Court/Chief Judicial Magistrate/Duty Magistrate concerned.

17.11.2022

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**(GURVINDER SINGH GILL)
JUDGE**

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