

**205+103 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CRM-M-11214-2021 (O&M)

Date of decision : 24.08.2022

Harwinder Singh @ Cheena

....Petitioner

Vs.

State of Punjab

...Respondent

CORAM:- HON'BLE MR. JUSTICE MANOJ BAJAJ

Present: Mohd. Jameel, Advocate
for the petitioner.
Mr. Kunal Muthreja, AAG, Punjab.

MANOJ BAJAJ, J.

CRM-30533-2022

Application is allowed as prayed for.

Annexures P-5 to P-13 are taken on record.

Main case

Petitioner has filed this petition under Section 439 Cr.P.C for grant of regular bail in case FIR No.73 dated 29.11.2018 under Sections 394, 458, 323, 34 and 201 Indian Penal Code, 1860 and Section 25 Arms Act, 1959 (challan presented under Sections 398, 307, 394, 458, 323, 34, 411 and 201 IPC and Sections 25, 54 and 59 Arms Act) registered at Police Station City Ahmedgarh, District Sangrur, who is in custody since his arrest on 30.08.2019.

The allegations in the FIR as noticed by the learned Additional Sessions Judge, Sangrur, in the order dated 04.10.2019 are

as under:-

“From the police record, it comes to surface that FIR No.73 dated 29.11.2018 was registered at the instance of Raman Garg (complainant) against unknown persons, under Section 394,458,323, 34 IPC and 25,54,59 of Arms Act. The complainant has levelled allegations that on 28.11.2018, after closing his shop at Ludhiana, he came back home and after taking dinner he went to his bed room on first floor along with members of his family i.e. wife and kids. His father Vijay Garg and mother Kiran Prabha Garg were sleeping in the bed room on the ground floor. On 29.11.2018, at about 12:45 P.M., complainant heard noise on account of opening of door of balcony. When wife of the complainant opened the door, they found that four unidentified persons, out of whom two were armed with country made pistol. One was armed with iron pipe. Fourth was armed with knife. Suddenly they gave pushed wife of complainant and forcibly entered in bed room. One of them fired a shot with country made pistol, which hit against the wall of his room and on this account wife of complainant received injury on her face. Thereafter all of them started threatening the complainant to handover whatever cash, gold and silver ornaments with them, otherwise they will be killed. One of them had removed cash to the tune of Rs.3,50,000/- from the drawer of the study table. Thereafter, all of them at gun point took the complainant to the bed room of his parents, where one of them grappled with father of the complainant and one of them gave rod blow on his head. One of them had controlled other family members in the lobby. Out of three, one had removed gold chain weighing five tolas and pair of tops weighing 4 gram from the neck of mother of the complainant and they further removed 10-15 silver coins, four silver glasses and also documents and they removed Rs.4,00,000/- cash, one gold set weighing 7 tolas, two pairs of gold tops weighing 8 grams, two gold coins.”

Learned counsel for the petitioner has argued that it was his co-accused, who entered the house of the complainant and committed

the alleged crime, whereas petitioner has been falsely implicated on the ground that he made recce before commission of the crime. He submits that case of the petitioner is distinguishable from the other accused and during investigation, no incriminating material was recovered from him except his own motorcycle. He has further drawn the attention of the Court to the order dated 18.11.2019 (Annexure P-2) to contend that one of the accused, namely, Mohd.Sajjad has already been released on regular bail. He submits that the material witnesses have been examined and none of them have identified the accused, therefore, he be also released on regular bail.

On the other hand, learned State counsel assisted by ASI Balbir Singh opposed the prayer and argued that the offence is serious and previously also the petitioner was involved in other cases. However, it is not disputed that as per prosecution, the petitioner is not the one of the accused persons, who entered the house of the victims. He on instructions further states that in other cases, petitioner stands acquitted and in all there are 28 prosecution witnesses and material witnesses have already been examined.

After hearing learned counsel for the parties, considering the above background, petitioner's custody and the fact that the co-accused of the petitioner has already been released on bail, this Court is of the opinion that the further detention of the petitioner may not serve any useful purpose, who is presently confined in judicial custody

after his arrest on 30.08.2019.

Resultantly, without meaning any expression of opinion on the merits of the case, 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 concerned/Duty Magistrate.

The petition is allowed.

		(MANOJ BAJAJ)	
		JUDGE	
24.08.2022	Whether speaking/reasoned :	Yes	No
vanita	Whether Reportable :	Yes	No