

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

CRM-M-19768-2022(O&M)

Date of decision:-25.8.2022

Gaurav Kataria

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR.JUSTICE H.S.MADAAN

Argued by: Dr.Anmol Rattan Sidhu, Senior Advocate with
Mr.Mohammad Usman Siddiqui, Advocate,
Mr.Suvir Sidhu, Advocate and
Mr.Sukhcharan Singh Gill, Advocate for the petitioner.

Mr.Brijesh Sharma, AAG, Haryana.

H.S. MADAAN, J.

1. This second petition for regular bail has been filed by petitioner - Gaurav Kataria, aged about 27 years, resident of village Basia, Sector 9, Gurugram – an accused in FIR No.1352 dated 23.7.2019, under Sections 302, 307, 392, 397, 120-B IPC and Section 25(1A/27(3) of Arms Act, registered with Police Station Shivaji Nagar, Gurugram. The first petition filed by the petitioner bearing CRM-M-3863-2020 was dismissed vide order dated 24.3.2021.

2. In nutshell, the facts of the case are that the criminal machinery in this case was set into motion by complainant Sunil Kataria son of Charan Singh Kataria, resident of village Basi Nair, Ex-Chairman

of Galli Station Sector-9, Gurugram, who in the written complaint submitted by him to the police stated that he along with his brother Manjit Kataria had been working as commission agent at Khandsa vegetable market; that Manjit Kataria deceased had an argument with Amit alias Lalu and the latter threatened to kill the former; on 23.7.2019 at about 5:30/6:00 in the evening Amit alias Lalu had a quarrel with Manjit Kataria and Amit alias Lalu took a *desi katta* and fired a shot therefrom at Manjit Kataria, hitting him in the abdomen; after receiving gun shot injury Manjit Kataria ran towards the main road to save himself followed by Amit alias Lalu, who snatched a scooty from a rider and then chase Manjit Kataria; the complainant and his partner Pritam alias Buntty followed him but Amit alias Lalu managed to escape; the complainant brought his brother Manjit Kataria injured to Medanta Hospital, where he was treated.

3. On the basis of such complaint, formal FIR was recorded. Amit alias Lalu was arrested in this case on 23.7.2019 itself. He was interrogated, during the course of which he suffered a disclosure statement and got a revolver, three live cartridges, one empty shell and snatched scooty recovered from his possession. He also got the place of incident demarcated. The investigation revealed that Amit alias Lalu had a talk with Gaurav Kataria (present petitioner) disclosing to him that he wanted to kill Manjit Kataria and Gaurav Kataria should provide him with a firearm, in that way, Amit alias Lalu and Gaurav Kataria had conspired to kill Manjit Kataria and Gaurav Kataria provided a *katta* along with four live cartridges to Amit alias Lalu. Manjit Kataria had succumbed to the injuries suffered by him on 30.7.2019 and offence under Section 302 IPC

was added. The present petitioner/accused Gaurav Kataria was arrested in this case on 4.9.2019. He was interrogated, during the course of which he stated that he had procured the *katta* and cartridges from one Amit alias Kalu, who in fact brought the same from Nawab from Meerut and that *katta* along with cartridges have been given by petitioner/accused to Amit alias Lalu, which had been used in the incident. The investigation revealed that there had been exchange mobile calls between accused Amit alias Lalu and Manjit Kataria deceased and between Amit alias Lalu and Gaurav Kataria, a day prior to the incident.

4. The petitioner/accused had approached the Court of Sessions at Gurugram by filing an application for regular bail, which was assigned to learned Additional Sessions Judge, Gurugram. However, his such application was dismissed by learned Additional Sessions Judge, Gurugram vide order dated 30.11.2019. The petitioner had earlier approached this Court as discussed above by filing a petition, which was however dismissed. Now the petitioner has again approached this Court for the second time with the same request.

5. Notice of the petition was given to respondent – State and counsel representing the State puts in appearance.

6. I have heard learned counsel for the parties besides going through the record.

7. The first petition for regular bail was mainly declined considering the apprehension expressed by the State counsel that if released on bail, there is likelihood of the petitioner trying to tamper with the prosecution evidence by giving threats and inducement to the

prosecution witnesses and absconding even to prolong the trial. Now as per the report received from the trial Court, the statements of complainant Sunil Kataria – eye-witness and Pritam son of Dharmender have been recorded, whereas witness Bhupender Kataria has been given up by Public Prosecutor for the State. In that way, there could not be any occasion for the petitioner trying to give any threat and inducement to the prosecution witnesses since statements of the material witnesses have since been recorded in the trial Court. As far as the likelihood of the petitioner trying to abscond to prolong the trial suitable terms and conditions can be imposed to thwart that attempt. It may be observed that the trial is moving at slow pace and its conclusion is likely to take sometime. The petitioner is in custody since 4.9.2019 i.e. almost for three years.

8. Under the circumstances, I find that the petitioner deserves to be granted concession of bail, although on stringent terms and conditions. Therefore, the petition is allowed and petitioner be admitted to bail during the pendency of the trial, subject to his furnishing bail bonds and surety bonds to the satisfaction of the trial Court/Chief Judicial Magistrate, Gurugram, subject to the following conditions:

- (i) he shall appear in the Court on each and every date of hearing;
- (ii) he shall not give any threat or intimidation to the prosecution witnesses;
- (iii) he shall not indulge in any criminal activity;
- (iv) he shall not leave India without prior permission of the Court;
- (v) he shall surrender his passport before the Investigating Officer, if he has got one, otherwise to furnish affidavit in that regard; and
- (vi) he shall get his presence marked in the local police station on every Saturday of the week in the forenoon and he will furnish a declaration that he has not indulged in any criminal activity in the meanwhile.

9. The Court accepting bonds would ensure that sureties furnished are local having documentary proof of immovable properties in their names situated within jurisdiction of the Court of the value double the surety amount. Photographs of the sureties, attesting witnesses and the accused be got attached on the bonds and copies of the title deeds be also got attached with endorsement made on the original title deeds with regard to the said person having stood surety for the accused in this case.

10. In addition to that the trial Court may impose any term and condition found suitable to ensure that the petitioner does not abscond and interfere in the trial. In case the petitioner violates any term and condition on which the bail has been granted to him, the prosecution would be entitled to apply for cancellation of bail.

It may be mentioned here that nothing discussed hereinabove shall have any bearing on the merits of the case.

25.8.2022

Brij

(H.S.MADAAN)
JUDGE

Whether reasoned/speaking : Yes/No

Whether reportable : Yes/No