

**In the High Court for the States of Punjab and Haryana
At Chandigarh**

CRM-M-21051-2021 (O&M)
Date of Decision:-28.3.2022

Rohit Kumar

... Petitioner

Versus

State of Haryana

... Respondent

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present:- Mr. Sanjeev Kodan, Advocate for the petitioner.

Mr. Rahul Mohan, DAG, Haryana,
assisted by SI Singh Raj.

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.13 dated 30.1.2019, Police Station Sector 20, Panchkula, District Panchkula under Sections 216, 302, 394, 395, 396, 397, 120-B of Indian Penal Code and Section 25 of Arms Act.
2. The FIR in question was lodged at the instance of Vinod Kumar, wherein it is alleged that on 30.1.2019 at about 5-5:30 p.m., he was playing cards alongwith another of his 10-12 friends in his showroom. It is alleged that 8-10 youngsters came inside the showroom, who were all carrying pistols. After entering the showroom, 2-3 of them opened fire at them. They scared

them by brandishing their pistols and told them to hand over whatever cash or gold they had. Upon resistance by 2-3 of complainant's companions, they were given beatings by the accused with the help of helmet. 2-3 of the said accused also fired shots at them. The accused took away all the cash, their mobile phones and gold ornaments and fled away while firing upon them. It is alleged that one of the gunshots hit Sunny, who ultimately succumbed to his injuries.

3. Learned counsel for the petitioner submitted that the petitioner is nowhere named in the FIR and has been nominated as an accused initially on the basis of his own disclosure statement, when he came to be arrested in another case in State of Uttar Pradesh i.e. in FIR No.95/2019, Police Station Budhapur, District Bijnor, Uttar Pradesh, under Section 302 of Indian Penal Code. Learned counsel submits that such like disclosure statement would virtually assume the character of a confession in custody and is not admissible evidence in the eyes of law.
4. Learned counsel for the petitioner has further submitted that apart from the said disclosure statement of the petitioner himself, the prosecution also claims that 4 other co-accused namely Hemant, Sunil, Naveen and Kuldeep, who were arrested later on, also suffered disclosure statements showing involvement of the petitioner and that the said disclosure statements would hardly carry any evidentiary value in the absence of any other corroborative evidence. It has also been submitted that although a large number of PWs out of the cited 75 PWs have already been examined, but none of them has identified the petitioner to be the accused.

5. On the other hand, learned State counsel submitted that during the course of evidence, it had surfaced that although the petitioner was not present at the spot but he had actively associated with his co-accused inasmuch he had conducted recce of the area and was present at a short distance from the showroom of the complainant and formed a backup team to facilitate the co-accused in case anything went wrong. Learned State counsel has drawn the attention of this Court to para No.10 of the reply dated 1.10.2021, which indicates the role attributed to the petitioner, which reads as follows:

“10. That accused Rohit Kumar S/o Rajeev Kumar R/o Flat No.2601, GH 4/A Jalvayu Vihar, Sector 20, Panchkula was arrested on 02.01.2020. The accused was involved with his companions in the crime, he prepared the plan to commit the crime with his companions. The recce of the place of show room at Sector-20, Panchkula was conducted by him along with his other companions in Scoda vehicle bearing No.DL-2958, alongwith Hemant Kansal and other co-accused who came from Delhi and conducted recce of other ways near the place of occurrence. Rohit Kumar also with accused Hemant Kansal stood in Scoda vehicle on some distance from the place of occurrence on dividing road of Sector 20/21 Panchkula for backup to their companions. During the course of investigation, place of plan H. No.92, Sector 25, Panchkula was demarcated by him and also the place where they stood to backup their companions at the time of crime and place of occurrence and Rosewood Hotel Zirakpur, where they stayed was also demarcated by him.”

6. Learned State counsel has further submitted that the police also collected call-details in respect of telephone numbers used by the petitioner and other co-accused and which clearly shows that the petitioner was actively in touch with the remaining co-accused on the day of occurrence, which would clearly

point towards the complicity of the petitioner. Learned State counsel has, however, not disputed that the petitioner as on date has been behind bars since the last more than 2 years and that although he is not involved in any other case in the States of Punjab and Haryana but stands involved in one more case in State of Uttar Pradesh. Learned State counsel has informed that as on date only 27 PWs out of the cited 75 PWs have been examined.

7. I have considered rival submissions addressed before this Court.
8. Even as per the case of prosecution, the petitioner is not alleged to have entered into the showroom where the complainant and others were playing cards and nor is alleged to have fired at anyone. The role attributed to him would be in the nature of conspiring with the remaining co-accused inasmuch he had conducted recce of the area and was present near the place of occurrence for doing help in case anything went wrong when the co-accused barged into the showroom of the complainant. The petitioner has been behind bars for a substantial period of more than 2 years. Conclusion of trial is likely to consume time inasmuch only 27 PWs out of the cited 75 PWs have been examined so far. The petitioner is not attributed any injury.
9. Without commenting anything as regards merits of the case but while noticing the aforestated facts, this Court finds that further detention of the petitioner will not serve any useful purpose. 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.

28.3.2022

pankaj

Whether speaking /reasoned

Whether Reportable

Yes / No

Yes / No

**(Gurvinder Singh Gill)
Judge**