

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

**CRM-M-21892-2022
Decided on : 28.09.2022**

Pardeep Kumar

. . . Petitioner(s)

Versus

State of Punjab

. . . Respondent(s)

CORAM: HON'BLE MR. JUSTICE SANJAY VASHISTH

PRESENT: Mr. S. S. Sidhu, Advocate
for the petitioner.

Mr. Jaswinder Singh Arora, DAG, Punjab.

SANJAY VASHISTH, J. (Oral)

The instant petition has been filed under Section 439 of the Code of Criminal Procedure, 1973, for grant of regular bail to the petitioner – Pardeep Kumar, who has been booked for having committed the offence punishable under Sections 302, 307 IPC and Sections 25, 27, 54, 59 of Arms Act (Sections 212, 216 and 120-B IPC added later), in FIR No. 255, dated 29.09.2021, registered at Police Station City Muktsar, District Sri Muktsar.

Learned counsel for the petitioner submits that the present FIR has been got lodged by Kaku, who is brother of deceased Sham Lal @ Sham. Complainant being injured eye witness did not name the petitioner in any manner. The alleged incident took place on 29.09.2021 and on the same date, complaint was filed by the complainant. On showing of photographs by the police, complainant identified four assailants, namely, Sagar Rana, Sumit @ Kalu, Harsh @ Mithun and Sukhjit Singh @ Seeto @ Sukhi and another supplementary statement dated 18.11.2021(Annexure P-2), under Section 161 Cr.P.C., of complainant Kaku was recorded. In the said supplementary statement complainant had also named two more persons, namely, Satinder

Singh @ Goldy Brar and Gurinderpal Singh @ Gora. While referring the said supplementary statement, learned counsel for the petitioner submits that six accused were named by the complainant who actively participated in the occurrence and challaned by the police. He further submits that while recording of DDR No. 32 dated 12.10.2021, petitioner has been indicted in the present case. The said DDR reads as under:-

“ At this time it is recorded that I P/DSP/SHO who has gone vide entry No. 19 in roznamcha alongwith fellow officials have come back to police station. In FIR No. 255 dated 29.09.2021, under Sections 302, 307 IPC and sections 25, 27, 54, 59 of the Arms Act, (offence added 212, 216, 120-B of IPC), Police Station City SMS, Pardeep Kumar @ Prem Kumar son of Nathu Ram, resident Kal Jharani presently Mandi Killianwali is being nominated as an accused in the case. In the case offences under Sections 212, 216, 120-B of IPC are also been added. Circumstances of the case are being recorded in the zimni not legible intimation in this regard is sent to ld. Magistrate and Senior Officers.

Learned counsel for the petitioner submits that it is an admitted case of the prosecution that petitioner is running a hotel which is situated at a distance of more than 50 km from the place of occurrence. Only on the basis of CCTV footage, prosecution has made up a story that assailants stayed in the hotel of the petitioner and on that basis, he was challaned for the offence punishable under Sections 212 and 216 IPC, i.e. for harbouring the offenders

and on the basis of assumption, Section 120-B IPC has also been added in the present case.

Learned counsel for the petitioner also submits that Sections 212 and 216 IPC will not be attracted in the present case because as per case of the prosecution the offenders took shelter in the hotel of the petitioner prior to the said incident. As far as allegations of hatching conspiracy is concerned, there is no direct evidence of any nature which can show any active role played by the petitioner in the present case.

It is further argued that petitioner is a young boy, aged about 29 years, and behind the bars since 15.10.2021. No other case is pending or registered against him and trial would take sufficient time to conclude. Thus, prays regular bail for the petitioner.

On the other hand, learned State counsel while opposing the prayer and submissions made by learned counsel for the petitioner submits that there is direct involvement of the petitioner in the matter, which is clear from the fact that he is the same person whose swift car, bearing registration No. PB-3BD-8153, was used for providing escape route to the main accused. He has further submitted custody certificate dated 27.09.2022, which shows that petitioner is in custody since 15.10.2021 and no other case is shown to have been registered against him. Custody certificate is taken on record. Learned State counsel has also pointed out that after investigation, challan has already been filed.

I have considered the submissions of both the sides, and perused the material available on record with their able assistance.

As per prosecution version, petitioner is neither directly involved in the present case nor even alleged to be present on the spot at the time of incident. It is also not the case of the prosecution supported by any

plausible evidence that petitioner has provided any weapon to the assailants for committing the murder. As of now, there is nothing available on record to show any enmity of the petitioner with the complainant and his family.

Furthermore, evidence in the shape of CCTV footage is being relied upon by the prosecution to prove that assailants had stayed in the hotel of the petitioner, which is stated to be located at a considerable distance from the place of occurrence. Therefore, any role of the petitioner in hatching conspiracy of committing murder, is not established, at this stage.

While considering all the available facts of the case, at this stage, this Court is not inclined to give any opinion regarding factum of staying of assailants in the hotel of the petitioner, or any other evidence, if available, in regard to the conspiracy.

The petitioner is behind bars since 15.10.2021 and one year is about to complete after few days and taking into consideration the age of the petitioner, this Court is of the view that no purpose would be served by keeping him inside jail, especially, when trial is moving very slow, as out of 32 prosecution witnesses, none has been examined so far. Therefore, I deem it appropriate to enlarge the petitioner on bail to the satisfaction of the trial Court.

In view of the aforementioned facts and circumstances of the case and the submissions made by the parties, present petition is allowed. Petitioner is ordered to be released on bail in this case, subject to his furnishing heavy bail/surety bonds to the satisfaction of the learned Trial Court/ Chief Judicial Magistrate/ Illaqa Magistrate/ Duty Magistrate concerned, if not required in any other case.

It is made clear that the petitioner shall not extend any threat and shall not influence any prosecution witnesses in any manner directly or

indirectly.

Observations made here-in-above shall not be construed as an expression on the merits of the case and the Trial Court shall decide the case on the basis of evidence available on record.

(SANJAY VASHISTH)
JUDGE

September 28, 2022
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Whether speaking/reasoned: *Yes/No*
Whether Reportable: *Yes/No*