

**IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH.**

CRM-M-23339-2022

Date of Decision:-03.08.2022

Rakesh Kumar Aggarwal.

.....Petitioner.

Versus

State of Punjab.

.....Respondent.

CORAM:- HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present:- Mr. Harneet Singh Oberoi, Advocate for the Petitioner.

Mr. Sidakmeet Singh Sandhu, AAG Punjab

Mr. Veneet Sharma, Advocate for the Complainant.

JASJIT SINGH BEDI, J. (ORAL)

The Prayer in this petition is for the grant of regular bail under Section 439 Cr.PC in case FIR No.199 dated 21.12.2021 under Sections 307, 379-B, 148, 149 IPC and Sections 25 & 27 of Arms Act (Section 54 and 59 of Arms Act added later on) registered at Police Station Kathu Nangal, District Amritsar.

The brief facts of the case are that complainant-Raman Kumar Arora got recorded his statement to the effect that he was in the business of cloth and real estate. He was to get a sum of Rs.1 lac from Happy who had called him to take the money on 20.12.2021. At about 8.15 in the evening while he was on his way to village Rupewal to meet Happy a White Figo Car bearing registration No.7766 started following his scooter. In the said vehicle Dharmesh Aggarwal, Sahil Aggarwal, Rakesh Aggarwal and two unknown persons were travelling. On seeing him they got out and while Sahil and Rakesh Aggarwal raised *lalkaras*, Dharmesh Aggarwal fired six shots from his pistol striking his scooter Activa while one shot made a hole

in his jacket and sweatshirt. He got scared, threw his moped and ran towards the fields to hide himself. He thereafter informed the control room and family members about the occurrence. The motive for the same was that a sum of Rs.1.80 crores was to be received from Dharmesh Aggarwal, Sahil Aggarwal, Rakesh Kumar Aggarwal, which they were not giving. Based on the aforesaid allegations, the present FIR came to be registered.

The Counsel for the petitioner contends that the allegations in the FIR have not been found to be absolutely correct. In fact during the course of investigation Dharmesh Aggarwal purported to be the main accused has been exonerated whereas the present petitioner Rakesh Aggarwal is the only challaned accused and his son Sahil Aggarwal is still absconding. He contends that it is a no injury case and the allegations on the face of it seems to be absurd. It is contended that the petitioner is in custody since 23.12.2021, the report under Section 173 (2) Cr.PC already stands filed and since none of the 21 prosecution witnesses have been examined so far, the further incarceration of the petitioner would not be required as the trial is not likely to be concluded any time soon. He thus prays for grant of regular bail.

The Counsel for the complainant on the other hand submits that on investigation it has been found that the petitioner along with his son Sahil (since absconding) are the main accused. The Ballistic report clearly shows that the holes made on the cloth of the complainant have been caused by a projectile of a firearm and it is a providence which save the complainant. He contends that the petitioner does not deserve the concession of bail despite the fact that he has undergone a custody period of more than 07 months looking at the role played by the petitioner and the allegations in the FIR.

The Counsel for the State has also supported the case of the complainant and has stated that the petitioner does not deserve the concession of regular bail. He however, fairly concedes that it is case of no injury and none of the 21 prosecution witnesses have been examined so far.

I have heard learned Counsel for the parties at length.

As per the initial prosecution version, Dharmesh Aggarwal is said to have fired pistol shots at the complainant. During the investigation however, he has been exonerated and the present petitioner is now stated to

be the main accused along with his son Sahil Aggarwal who is still absconding. Admittedly, it is a case of no injury and the petitioner is in custody since 23.12.2021. The investigation qua the petitioner stands completed and none of the 21 prosecution witnesses cited in the list of witnesses have been examined till date. Further, the petitioner is not involved in any other case. Thus, as such the further incarceration of the petitioner is not required.

In view of the above, without commenting on the merits of the case, the present petition is allowed and the petitioner **Rakesh Kumar Aggarwal** son of Sh. Brij Lal is ordered to be released on bail subject to the satisfaction of learned CJM/Duty Magistrate, concerned.

The petitioner shall appear before the police station concerned on the first Monday of every month till the conclusion of the trial and inform in writing that he is not involved in any other crime other than the present case.

If any attempt whatsoever is made by the petitioner and/or his family members to tamper with the evidence, the State/complainant shall be at liberty to move an application for cancellation of bail granted vide this order.

Petition stands disposed of.

(JASJIT SINGH BEDI)
JUDGE

August 03, 2022

Vinay

<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether reportable</i>	<i>Yes/No</i>