

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

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CRM-M-29303-2021 (O&amp;M)

Date of Decision: 01.08.2022

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Gurleen Singh @ Gagan

.....Petitioner

V/s.

State of Punjab

.....Respondent

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**CORAM: HON'BLE MR. JUSTICE VINOD S. BHARDWAJ**

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Present: Mr. KS Bal, Advocate for the petitioner

Ms. Amarjit Kaur Khurana, DAG Punjab

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**VINOD S. BHARDWAJ, J. (Oral)**

(1) The present petition has been filed under Section 439 of the Code of Criminal Procedure, 1973 for grant of regular bail to the petitioner in case FIR No.284 dated 05.11.2019 registered under Section 379-B(2)/336/34/411 IPC (Sections 326/450/489/201/120-B IPC added later on) and Sections 25/27/54/59 of Arms Act (Section 34 IPC deleted later on) at Police Station Civil Lines, District Amritsar.

(2) The FIR in the present case has been instituted on the statement of Rahul Kumar Singh and the same reads as thus:-

*“Statement of Rahul Kumar Singh s/o Hargobind Singh r/o Street No.2, New Dashmesh Nagar Kot Khalsa, Near Kewal Di Bambi, Amritsar aged about 26 years Mobile No.9878009352. Stated that I am resident of above said address and before 10 year I am doing the work at shop No.19 AGA Market Tailor Road, Dhanlav Forex Private Limited Amritsar. The owner of this firm are Bhupinder Kumar s/o Azad Kumar Kapoor r/o 214 Street No.13, guru Amar Das Avenue Ajnala Road Amritsar and Sachin Kapoor s/o Roshan lala r/o House No.1586/11 Street Chander Bhan Bombay Wala Khooh, Amritsar. The work of money changing is being done in this firm. Today on dated 05.11.2019 at about 4 PM that I along*

*with my owner Bhupinder Kumar above said were doing our work and in the meantime that two hair cut person came into our office, one of them was wearing helmet on his head and covered his face with handkerchief and wear goggles on his eyes and his age was about 30/32 years and the other persons wear a cap on his head and covered his face with handkerchief and his aged was also looking about 30/32 years, came into our office and helmet wearing person had a pistol in his band and the person wearing cap was having a knife in his hand. When they came, asked my owner Bhupinder Kumar, who was sitting on the reception, that everything which you have put it out. One person after pushing me take me in the cabin and asked if I have anything, put the same out, but I said to him that I am worker, then they came to the owner Bhupinder Kumar and the person who was carrying knife gave a blow of his knife his stomach of the owner Bhupindre Kumar and we raise a noise then the person snatched the Oppo Mobile Phone of my owner in which SIM No.98775376690 and 92161-48640 are running and then they came out from the office and they tried to flee away on their black colour splendor motorcycle and we tried to nabbed them but the person who was keeping the gun, gave a blow of butt of the gun on the head of my owner Bhupinder Kumar and in the meantime, many other people were gathered there and the person who was carrying the gun did firing in the air and then the two unidentified persons fled away from the spot on their motorcycle. There was no number plate on the motorcycle. I took Bhupinder Kumar in the injured state of the backseat of my motorcycle for treatment to the Sukh Sagar Hospital, Amritsar and gave the information to the heirs of the Bhupinder Kumar upon which Bhupinder Singh s/o Shiv Nagar Colony Shivala Mill, Amritsar, who is the friend of Bhupinder Kumar came there. The doctors of the Sukh Sagar Hospital gave the first aid to the Bhupinder Kumar and referred him to Civil Hospital, Amritsar and we have admitted him in Civil Hospital Amritsar for treatment.”*

(3) Learned counsel for the petitioner contends that the petitioner is not named in the FIR and that no injury has been attributed to him. It is contended that even though a country-made pistol has been recovered from the alleged possession of the petitioner, however, there is no role attributed to the petitioner *qua* the use of the said weapon.

(4) Further, it is submitted that the petitioner has already undergone an actual custody of 2 years, 7 months and 8 days and that only 7 witnesses out of total 26 witnesses, have been examined by the prosecution so far. The trial is not likely to be concluded in near future.

(5) *Per contra* learned counsel for the State contends that the petitioner suffers from criminal antecedents and that there is yet another FIR registered against the petitioner i.e. FIR No.109 dated 16.05.2019 under Sections 452/379-B IPC. Besides, one more FIR No.16 dated 31.01.2015 under Section 399/402 IPC is pending against the petitioner. She however, does not dispute the fact that the petitioner has already undergone actual sentence of 2 years, 7 months and 8 days and that only 7 witnesses have been examined so far.

(6) Controverting the aforesaid submissions advanced by the counsel for the respondents, learned counsel for the petitioner contends that the FIR No.109 dated 16.05.2019 in fact relates to recovery of motor cycle which was allegedly used in the commission of offence in FIR No.284 dated 05.11.2019 and as such both the FIRs relates to the same transaction. It is further contended that so far as FIR No.16 of 2015 is concerned, the petitioner is already on bail since 14.03.2015.

(7) I have heard learned counsel appearing on behalf of the respective parties and have gone through the record with their assistance.

(8) Taking into consideration the period of actual custody undergone by the petitioner along with the stage of investigation as also the absence of any specific role/injury attributed to the petitioner in the commission of alleged offence, I deem it appropriate to enlarge the petitioner on bail to the satisfaction of the trial Court.

(9) Accordingly, the instant petition is allowed and the petitioner is ordered to be released on bail on his furnishing requisite bail bond/surety bond to the satisfaction of the Trial Court/Duty Magistrate, concerned.

(10) 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.

(11) The observation made hereinabove 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 available material.

(12) The petition is allowed.

01.08.2022  
V.Vishal

(Vinod S. Bhardwaj)  
Judge

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| <i>Whether speaking / reasoned</i> | : | <i>Yes /No.</i> |
| <i>Whether Reportable</i>          | : | <i>Yes/No</i>   |