

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-33105-2022 (O&M)
Date of decision: 03.08.2022

Sanjay @ Sonu

... Petitioner

Vs.

State of Haryana

... Respondent

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present: Mr. M.S. Dalal, Advocate for the petitioner.

Mr. Deepak Grewal, DAG, Haryana.

ARVIND SINGH SANGWAN, J. (ORAL)

Prayer in this 2nd petition is for grant of regular bail in FIR No.42 dated 16.02.2021 under Sections 387, 307, 120-B IPC (Section 216 IPC was added later on) and Section 25 of Arms Act, registered at Police Station Kalayat, District Kaithal, earlier one was dismissed on 04.02.2022.

Learned counsel for the petitioner submits that new ground for filing this second petition is that the petitioner is in custody for the last 01 year, 05 months and 10 days and complainant Shekhar, who appeared as PW1, has not supported the prosecution version.

Brief facts of the case are that FIR was registered on a complaint given by Shekhar that he is running a readymade garments shop. About one and half months prior to the incident, he received a call on his mobile phone from one person Raju, who introduced himself as member of Parveen @ Binny

gang and demanded Rs.15.00 lacs as ransom from him. When the complainant showed his inability to pay the money, he threatened him of dire consequences. After 2-3 days, a person came on his shop and disclosed his name as Sonu, who also informed that he is member of aforesaid gang and took away clothes from him on the pretext that same are required for Parveen @ Binny. On 16.02.2021, when the complainant was standing outside his shop, a vehicle came, in which a person sitting on the rear seat, rolled down the window glass and fired a shot aiming the complainant, however, he rescued himself and a bullet hit on the stairs. Thereafter, occupants of the car fled away.

Learned counsel for the petitioner has submitted that the petitioner is first offender; he is not involved in any other case and he has been roped in by citing him as member of Parveen @ Binny gang, who is an accused in multiple cases. Learned counsel has referred to statement of complainant/PW1 Shekhar, who has not supported the prosecution version, as given in the FIR. When he was asked to identify the accused persons namely Subhash, Ram Lal @ Ramu, Ram Niwas, Virender @ V.K. Baba, Kapil, Rajesh, Sunil, Satish, Abhishek, Raju, Sombir, Sanjay (petitioner), Aniket, Ajay and Parveen @ Binny, he stated that none of the accused has fired shot from any country-made pistol nor any attempt was made for extorting money. This witness was declared hostile by the Public Prosecutor and was cross-examined by him. In cross-examination, when he was confronted with his complaint forming basis of FIR Ex.P1, he denied having made such statement before the police and even denied the averments of the FIR regarding the earlier incident, when he received a phone call or when the accused came to his shop and took away

clothes for main accused Parveen @ Binny. Even one more witness SI Satpal, who registered the formal FIR, has also been examined. It is thus submitted that since the complainant himself is already examined, there is no possibility of tempering with the prosecution evidence and remaining witnesses are official witnesses.

Learned State counsel, on instructions from ASI Jasbir Singh, who has sent the report, has, however, opposed the prayer for bail on the ground that allegation against the petitioner in the FIR with regard to extorting money, followed by firing incident, are there, however, as per custody certificate, filed in the Court today, it is not disputed that the petitioner is in custody for the last 01 year, 05 months and 10 days; he is first offender and is not involved in any other case. It is also not disputed that PW1 complainant Shekhar has neither supported the prosecution version nor identified any of the accused, while deposing on oath.

After hearing learned counsel for the parties, without commenting anything on merits of the case and considering aforesaid facts and circumstances of the case, this petition is allowed and the petitioner is directed to be released on regular bail subject to furnishing his bail/surety bonds to the satisfaction of the trial Court/Illaq Magistrate/Duty Magistrate, concerned.

Petition is disposed of.

[ARVIND SINGH SANGWAN]
JUDGE

03.08.2022
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Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No