

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

CRM-M No. 37337 of 2021 (O&M)

Date of Decision: 15.02.2022

Chanpreet Singh alias Sunny

..... Petitioner

Versus

State of Punjab

..... Respondent

CORAM: HON'BLE MR. JUSTICE SURESHWAR THAKUR

Present: Mr. Rakesh Sobti, Advocate,
for the petitioner.

Mr. Bhupender Beniwal, Assistant Advocate General, Punjab

SURESHWAR THAKUR, J. (ORAL)

1. At the outset, on the oral request of the learned counsel for the petitioner, the correction, in the head note, as well as in the prayer clause, is allowed.

2. Offence under Section 25 of the Arms Act, is permitted to be incorporated in the head note as well as in the prayer clause of the petition. The above be done in the hands, and, under the signatures of the learned counsel for the petitioner.

3. The petitioner, by filing the present petition under Section 439 Cr.P.C., seeks grant of regular bail in case FIR No. 0019 of 25.02.2021, which was registered against him, at Police Station Badali Ala Singh, Fatehgarh Sahib, constituting therein offences under Sections 399, 402 of the IPC, and, under Section 25 of the Arms Act, 1959.

2. The bail applicant-petitioner is stated to be suffering judicial incarceration since 25.02.2021.

3. Though, the relevant recoveries became effected at the instance of co-accused, one, Lakhwinder Singh @ Lakhi, to the Investigating Officer

concerned, and, also when the said co-accused, by filing a regular bail

petition bearing CRM-M-26974-2021, before this Court, has already been admitted to regular bail, through an order made on 19.07.2021 by the Co-ordinate Bench. Therefore, unless there is tangible evidence on record, suggestive of the incriminatory role of the petitioner, being graver and more heinous, than the one as attributed to the above co-accused, thereupon, the petitioner is entitled to parity of treatment alongwith the afore co-accused.

4. Though, the learned State Counsel, has made a submission, that incriminatory role attributed to the petitioner is larger and more heinous than the one attributed to the afore co-accused . However, the afore submission is not supported by any concrete evidence, rather when the recovery of the incriminatory weapon of offence, became effected to the IO concerned, by the afore co-accused (Lakhwinder Singh @ Lakhi), and, not by the bail petitioner. Therefore, the above made submission become completely rudderless.

5. Since, the petitioner is in judicial custody since 25.02.2021, and also when after completion of the entire investigation in the FIR (supra), the challan has also been filed, and, when no further cooperation of the bail applicant / petitioner, is required, in the relevant investigations. Therefore, it is not deemed fit to order for any prolongation of the judicial incarceration of the petitioner. Contrarily, it is deemed appropriate to admit to bail, the bail petitioner.

6. However, the learned State Counsel opposes the grant of bail to the bail applicant, on the ground that the bail applicant is an habitual offender, and, that thereupon, this Court may not grant any indulgence of bail to the petitioner.

7. The afore made submission is benumbed, upon this Court, making stringent conditions upon the bail applicant, inasmuch as his making an undertaking before the learned trial Court, that he shall not re-indulge in any criminal activity, whereupon, on breach thereof, the benefit of regular bail, as granted to him shall become *ipso facto* annulled, leaving liberty to the Arresting Officer, to forthwith arrest him, and, to thereafter, produce the bail applicant before the learned Magistrate concerned, for appropriate directions, *vis-a-vis*, an order of judicial custody being made, upon him.

8. Consequently, with condition (*supra*), the instant petition is allowed, and the bail applicant – petitioner is ordered to be released from judicial custody, on his furnishing personal and surety bonds in the sum of ₹ 50,000/- each, before the learned trial Court/Chief Judicial Magistrate/Duty Magistrate concerned, and, also subject to his not tampering with prosecution evidence, and/or not influencing prosecution witnesses, and, also his appearing before the trial Court concerned as and when he is required to be making his personal appearance unless validly exempted.

February 15, 2022

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**(SURESHWAR THAKUR)
JUDGE**

<i>Whether Speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether Reportable</i>	<i>Yes/No</i>