

214

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

CRM-M-45089-2021
Date of decision: 16.05.2022

RAJESH KUMAR ALIAS MOGLI

...Petitioner

Versus

STATE OF PUNJAB

...Respondent

CORAM: HON'BLE MR. JUSTICE SURESHWAR THAKUR

Present: Mr. Manbir Singh Batth, Advocate
for the petitioner.

Ms. Bhavna Gupta, DAG, Punjab.

SURESHWAR THAKUR, J. (ORAL)

1. The instant petition has been filed under Section 439 of Cr.P.C., wherein the present bail petitioner seeks the indulgence of regular bail.
2. FIR No.0091 of 29.07.2021, constitutes therein offences embodied under Section 379-B of IPC (offence under Section 25 of Arms Act, added subsequently vide DDR No.037 of 17.09.2021), and, is lodged at Police Station Sultanwind, District Amritsar, therein, the commission of incriminatory offences are attributed to the bail petitioner.
3. The petitioner arrived, at the crime site, while driving Acura, pillion whereof was occupied by Sandeep Kumar. Moreover, the other co-accused namely Pardeep Kumar, and, Gautam @ Gautu also arrived, at the crime site, on their respective vehicle. The prosecution alleges that, all the above accused were there, with each sharing a common *mens-rea* of

extorting a sum of Rs.4.5 lacs from the victim through a pistol being brandished, at him.

4. The pistol as was wielded, and, became brandished, at the crime site, at the victim, though resulted in a sum of Rs.4.5 lacs, becoming extorted from him, but it was not wielded by the present bail petitioner, rather was wielded by co-accused Pardeep Kumar, and, Gautam alias Gautu, both of whom are stated by the learned State counsel, to be yet not arrested. The consequence of the above, is that, no recoveries of any pistol was required to be made by him, to the investigating officer concerned, during the course of his custodial interrogation,. Therefore, the non-effectuations of recovery, if any, at the instance of the present bail petitioner, to the investigating officer concerned, during the latter holding him to police remand, is of no consequence, at this stage.

5. Moreover, since it is also stated at the bar, by the learned State counsel, that from amongst a sum of Rs.4.5 lacs, as became extorted in the above manner from the victim, only a sum of Rs.1,000/- became received by the present bail petitioner. Therefore, and, also when the judicial incarceration of the present bail petitioner, has commenced on 31.07.2021, besides when the prosecution, at this stage, has not adduced any evidence, suggestive that in the event of the bail petitioner being admitted to regular bail, there is every likelihood of his fleeing from justice or tampering with prosecution evidence, thereupon, this Court does not deem it fit, and, appropriate to prolong the judicial detention of the present bail petitioner, as, thereupon his personal liberty would become unnecessarily fettered, and, curtailed.

6. Therefore, the instant petition is allowed. The petitioner-bail

applicant is ordered to be released from judicial custody. However, the granting of bail to the bail applicant-petitioner, is, subject to 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, also his not influencing prosecution witnesses, and, besides his appearing before the trial Court concerned, as and when directed to make his personal appearance unless validly exempted. Also subject to his depositing a sum of Rs.1,000/- in the establishment of the learned trial Magistrate concerned, disbursement whereof shall be regulated by the outcome of the trial, as becomes entered into by the learned trial Judge concerned, upon the petition FIR.

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16.05.2022

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(SURESHWAR THAKUR)
JUDGE

Whether speaking/reasoned:-
Whether reportable:

Yes/No
Yes/No