

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

105+212

CRM-M-45984 of 2021 (O&M)

Date of decision:28.10.2022

Sunil Kumar

... Petitioner

Vs.

State of Punjab

... Respondent

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present:- Ms. Ambika Jindal, Advocate with
Mr. Shrey Goel, Advocate
for the petitioner.

Mr. Mohit Chaudhary, AAG, Punjab.

SUVIR SEHGAL, J. (Oral)

CRM No.40654 of 2022

Application is allowed as prayed for.

Testimony of Nirvair Singh-PW5 is taken on record as
Annexure A-1.

CRM-M-45984 of 2021

This is the second petition filed under Section 439 Cr.P.C.,
seeking grant of regular bail to the petitioner in case FIR No.47 dated
11.05.2020 registered under Sections 307, 34 of Indian Penal Code, 1860
and Section 25 of Arms Act, 1959 at Police Station Daba, District Ludhiana
(Annexur P-1).

Version of the prosecution is that FIR, Annexure P-1 has been
registered on the complaint of Nirvair Singh, wherein, he has stated that on

10.05.2020, Sunil Kumar, present petitioner, who was sitting on the pillion of a motorcycle driven by Harpreet Singh, entered into argument with him. Parvinder Kaur @ Naina, his wife, instigated him and he took out a pistol from his pocket and fired a shot at the complainant, which hit him on his back.

Counsel for the petitioner submits that the first petition (CRM-M-41478 of 2020) preferred by the petitioner was withdrawn on 20.08.2021 as the most crucial witness i.e., complainant had not been examined. She submits that testimony of the complainant, Nirvair Singh, PW-5, has now been recorded and he has not supported the case of the prosecution. Counsel submits that in his deposition, Annexure A-1, he has categorically stated that he does not recognize the accused. She submits that although there are some other criminal cases against the petitioner, but insofar as present case is concerned, he is under detention since 15.05.2020 and deserves to be enlarged on bail in view of the change in circumstances.

Per contra, State counsel, upon instructions ASI Jatinder Singh, has opposed the petition and has submitted that petitioner is the main accused and is alleged to have caused a firearm injury on the complainant. He, however, could not dispute the deposition of the complainant and submits that five out of eleven witnesses have been examined. He has opposed the bail by referring to the criminal record of the petitioner.

Having considered the submissions made by counsel for the parties and considering the fact that material prosecution witness has been examined, who has been declared to be hostile, length of custody of the

petitioner and the fact that six more witnesses are yet to be examined, this Court is of the opinion that further confinement of the petitioner is not justified and he deserves to be released on bail during pendency of the trial.

Without commenting upon the merits or de-merits of the arguments addressed by counsel for the parties, petition is allowed. Petitioner is ordered to be released on bail on furnishing bail/surety bonds to the satisfaction of the Trial Court/Duty Magistrate concerned, who may impose any other condition it deems appropriate.

While being released on bail, petitioner shall furnish an undertaking by way of an affidavit to the effect that henceforth he will not get involved in any other criminal activity. In case he violates the undertaking, State shall be at liberty to seek cancellation of bail.

It is clarified that any observation made hereinabove shall not be construed to be an expression of opinion on the merits of the case.

October 28, 2022
savita

(SUVIR SEHGAL)
JUDGE

<i>Whether Speaking/Reasoned</i>	<i>Yes</i>
<i>Whether Reportable</i>	<i>Yes</i>