

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CRM-M No. 15592 of 2023
Reserved on :- 03.11.2023
Pronounced on: 06.11.2023

KISHAN SINGH

... Petitioner

Versus

STATE OF PUNJAB

... Respondent

CORAM:- HON'BLE MR. JUSTICE SANJIV BERRY.

Present:- Mr. R.P.Dhir, Advocate for the petitioner.
Mr. Jaspal Singh Guru, AAG, Punjab.
.....

SANJIV BERRY, J.

The instant petition has been preferred by the petitioner under Section 439 of the Code of Criminal Procedure for grant of regular bail to the petitioner in the following case (Annexure P-1):-

FIR No.	Dated	Sections	Police Station
406	29.11.2020	307, 450, 452, 148, 149, IPC and Section 25 of Arms Act.	Jandiala, District Amritsar Rural.

2. In *nutshell*, the case put forth by the prosecution is that on 28.11.2020 at about 7:15/7:30 complainant Harjinder Singh went for buying chicken from Raju Da Ahata, after ordering chicken, he sat inside the Ahata. After sometime 4/5 unknown persons having muffled faces came on motorcycle and stopped in front of Raju Da Ahata and one person having pistol in his hand another was having datar, after entering into the Ahata they attacked the complainant. Complainant received one shot of bullet on

his left thigh, second on the upper side of his knee, third on the lower side of his knee and fourth into his private part, datar blow on the backside of his neck. On crying “Mar Ditta Mar Ditta” the above said assailants fled away from the spot with their weapons and motorcycles. Complainant’s friend and family admitted him in Sunrise Hospital, where he recorded his statement and hence the FIR was registered.

3. It is *inter alia* contended by the learned counsel for the petitioner that the petitioner is innocent and has been falsely implicated in this case. He further submits that FIR was registered against the unknown persons and later on, supplementary statement was recorded and the petitioner along with other co-accused were nominated in this case. The Petitioner was arrested on 15.01.2021 and no injury was attributed to him. Planted recovery of one pistol was made on 10.01.2021. He submits that after completion of investigation, challan was presented in Court and out of 31 witnesses, only one witnesses has been examined. The complainant, who was examined as PW1 on 28.08.2022 had not supported the version of the prosecution and declared hostile. The petitioner has been in custody throughout and conclusion of trial will take a sufficiently long time and as such prayed for grant of concession of bail.

4. *Per contra* learned State counsel on the other hand opposed the bail application by submitting that the complainant suffered supplementary statement dated 14.01.2021 and named the present petitioner along with other co-accused and further disclosed that there was dispute between Harpreet Singh @ Happy around 4-5 years ago and the present petitioner along with other co-accused attacked upon him on asking of Harpreet Singh

@ Happy. He submits that as per reply there are 7 other criminal cases pending against the petitioner. He admits that that during the course of trial, complainant was only eye witnesses to the occurrence was examined as PW1 had not supported the version of the prosecution and turned hostile.

5. After considering the rival contentions and perusing the record, it transpires that the petitioner was arrested on 15.01.2021 on the basis of supplementary statement made by the complainant. After conclusion of the investigation, challan has been presented and till date out of 31 witnesses only 1 witness i.e. complainant who is only eye witness to the occurrence was examined as PW1, had not supported the version of the prosecution and turned hostile. No purpose would be served by detaining the petitioner in custody any longer, as the conclusion of trial will take a sufficiently long time.

6. Resultantly, without commenting on the merits of the case, the present petition is allowed. The petitioner is ordered to be released on bail, subject to furnishing bail bonds/surety bonds to the satisfaction of learned Trial Court concerned, if not required in any other case; undertaking to regularly appear on each and every date; not to leave the country without prior permission of the Court; and not to tamper with evidence of prosecution in any manner.

7. Any observation made above shall not be construed as opinion of this Court on the merits of the case.

(SANJIV BERRY)
JUDGE

06.11.2023

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- i) Whether speaking/reasoned?
- ii) Whether reportable?

Yes/No
Yes/No