

CRM-M-20309-2023

2023:PHHC:143610
-1-

(213) IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-20309-2023
Date of Decision: 09.11.2023

HARISH @ KAKA NEPALI

... Petitioner

Versus

STATE OF PUNJAB

...Respondent

CORAM: HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present: Mr. Ranwant Singh Sangha, Advocate
for the petitioner.

Ms. Ramta Chaudhary, DAG, Punjab.

JASJIT SINGH BEDI, J.

The prayer in the present petition under Section 439 Cr.P.C. is for the grant of regular bail in case bearing FIR No.24 dated 27.01.2023 registered under Section 25 of Arms Act, 1959 (Section 25(7) of Amended Arms Act, 2018 added later on) at Police Station City, Kharar, SAS Nagar, Mohali.

2. The brief facts of the case are that while the police party had set up a *Naka*, secret information was received that Jagdeep Singh alias Jagar (granted bail vide order dated 13.04.2023 passed in CRM-M-14137-2023) and Harish alias Kaka Nepali (petitioner) were roaming in the area for committing some crime with unauthorised weapons. There were multiple cases against Harish alias Kaka Nepali. In case, a *Naka* was set up near Shivalik City, then the two persons could be apprehended along with unauthorised weapons.

Based on the information, the FIR in question came to be registered. Thereafter, both the accused including the petitioner were apprehended. A .32 bore pistol and 3 live cartridges were recovered from Harish alias Kaka Nepali and a .32 bore pistol along with 3 live cartridges were recovered from Jagdeep Singh. During investigation, Harish @ Kaka Nepali admitted that he had been delivering weapons to many persons in Punjab. Therefore, an offence under Section 25(7) of the Arms Act was added.

3. The learned counsel for the petitioner contends that the petitioner has been falsely implicated in the present case. An identically situated co-accused namely, Jagdeep Singh had been granted the concession of bail by this Court vide order dated 13.04.2023 (Annexure P-4). Though, the petitioner was an accused in as many as 25 cases, in only 03 cases bearing FIR No.291 dated 07.10.2021 under Sections 307, 323, 324, 341, 506, 148, 149, IPC Police Station City Faridkot, FIR No.96 dated 22.10.2011 under Sections 307, 120-B, 34 IPC Police Station Sadar Faridkot and FIR No.1 dated 02.01.2012 under Sections 307, 420, IPC Police Station Behram, District SBS Nagar, he had been convicted whereas in all other cases either he had been acquitted or an untraced report has been filed. As the petitioner was in custody since 27.01.2023 and none of the 12 prosecution witnesses had been examined so far, he was entitled to the concession of bail.

4. On the other hand, the learned State counsel contends that serious allegations have been levelled against the petitioner and his co-accused and therefore, he was not entitled to the grant of bail. She, however,

concedes that a co-accused namely, Jagdeep Singh had been granted the concession of bail, in only 03 of the 25 cases registered against the petitioner, he has been convicted as also the fact that the petitioner was in custody since 27.01.2023 and that none of the 12 prosecution witnesses had been examined so far.

5. I have heard the learned counsel for the parties at length.

6. The veracity of the allegations levelled against the petitioner shall be established during the course of Trial. Admittedly, a similarly situated co-accused namely, Jagdeep Singh has been granted the concession of bail vide order dated 13.04.2023 (Annexure P-4). Even though, the petitioner is an accused in multiple cases, he has been convicted in only 03 cases and in the other cases, he stands acquitted or untraced reports have been filed. Further, the petitioner is in custody since 27.01.2023 and none of the 12 prosecution witnesses have been examined so far. Therefore, the Trial of the present case is not likely to be concluded anytime soon. In this situation, his further further incarceration is not required.

7. Thus without commenting on the merits of the case, the present petition is allowed and the petitioner-Harish @ Kaka Nepali son of Bharat Lal is ordered to be released on bail subject to his furnishing bail bonds and surety bonds to the satisfaction of learned CJM/Duty Magistrate, concerned.

8. The petitioner shall appear before the police station concerned on the first Monday of every month till the conclusion of the trial and inform in writing each time that he is not involved in any other crime other than the cases mentioned in this order.

9. If the petitioner or his family members/associates make any attempt to contact/threaten/intimidate the witnesses in the present case, the State would be at liberty to move an application for cancellation of bail granted vide this order.

10. In addition, the petitioner (or anyone on his behalf) shall prepare an FDR in the sum of Rs.1,00,000/- and deposit the same with the Trial Court. The same would be liable to be forfeited as per law in case of the absence of the petitioner from trial without sufficient cause.

11. The petition stands disposed of.

(JASJIT SINGH BEDI)
JUDGE

09.11.2023

JITESH

Whether speaking/reasoned:- Yes/No
Whether reportable:- Yes/No