

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

**CRM-M-21172-2023
Date of Decision: 09.05.2023**

Gurnam @ Gurunam

..... Petitioner

Versus

State of Haryana

..... Respondent

CORAM: HON'BLE MR. JUSTICE HARSH BUNGER

Present: Mr. Bhanu Udai, Advocate
for the petitioner.

Mr. Rajiv Goel, DAG, Haryana.

HARSH BUNGER J. (ORAL)

1. Petitioner (Gurnam @ Gurunam) has filed the present petition under Section 439 of the Code of Criminal Procedure seeking grant of regular bail in case bearing FIR No.468 dated 02.12.2018 (Annexure P-1), under Sections 399 & 402 of the Indian Penal Code and Section 25 of the Arms Act, registered at Police Station Murthal, Sonipat.
2. Custody certificate dated 07.05.2023 of the petitioner is filed by learned State counsel in Court today, which is taken on record, subject to all just exceptions.
3. Briefly, the aforesaid FIR was registered on the complaint of Assistant Sub Inspector Mukesh Kumar, CIA-2, Staff, Sector-7, Sonipat, wherein it was stated that upon receipt of a secret information, the

complainant along with fellow employees reached Sector-18 turn, G.T. Road, where the Swift Dzire Car (white colour) was spotted parked alongside an abandoned house and when the complainant along with other police officials reached the northern wall of the abandoned house quietly, a voice from inside the house was heard that *“Azad you park out swift Dzire in front of the car on GT Road, Rahul and I will point our pistol on the driver, and if anyone else is sitting in the car then Sahil and Gurnam will take them at gun point and we will rob the mobile and money of the driver and other person and car and then run towards Yamuna from Murthal”*. Accordingly, the place was surrounded by the police and when the complainant gave the warning to the persons, who were present inside the said abandoned house, to surrender to the police then all the said persons started running here and there and they tried to escape, however, Govind s/o Jai Bhagwan was apprehended and upon his search a .32 bore country made pistol, along with two live cartridges in the magazine, was found. Another person apprehended by Assistant Sub Inspector Dharambir stated his name to be Azad s/o Ramkumar, from whom a .315 country made pistol, along with one live cartridge, was found. One Rahul s/o Ramphal was apprehended by Head Constable Vineet, from whom a .32 bore country made pistol, along with live cartridges, was found. The person apprehended by E.H.C. Sandeep stated his name to be Gurnam @ Gurunam (petitioner) s/o Harish, from whom a .315 bore country made pistol, along with one live cartridge, was found. Similarly, Constable Rakesh apprehended one Sahil s/o Birender, from whom a .315 bore country made pistol, along with one live cartridge, was found. Another person named Aman s/o Radhesham was apprehended by Constable Amit, from whom two live rounds of .315 bore

country made pistol were found. The said accused persons could not show any licence or permit for the seized pistols and ammunition. A white Swift Dzire Car, without number plate, which was also found at the spot, was seized as evidence, as well. Accordingly, the present FIR (Annexure P-1) was registered against the aforesaid accused persons, namely Govind, Azad, Gurnam @ Gurnam, Sahil and Aman.

4. Learned counsel for the petitioner submits that earlier the petitioner was arrested in the instant case FIR (Annexure P-1) on 02.12.2018 and thereafter, he was granted the concession of regular bail by the Court of Additional Sessions Judge, Sonapat vide order dated 26.08.2019 (Annexure P-2).

5. Learned counsel for the petitioner submits that after the grant of bail, the petitioner was regularly appearing before the trial Court except on one date, i.e. 21.10.2021, when he could not reach the Court as he was ill. Subsequently, bail of the petitioner was cancelled and he was re-arrested in the instant case. Thereafter, the petitioner again applied for regular bail, which was dismissed by the Court of Additional Sessions Judge, Sonapat vide order dated 01.10.2022 (Annexure P-3). Another regular bail application filed by the petitioner was also dismissed by the Court of Additional Sessions Judge, Sonapat vide order dated 15.12.2022 (Annexure P-4). Accordingly, the present petition has been filed before this Court.

6. Learned counsel for the petitioner submits that the petitioner has been falsely implicated in the present FIR (Annexure P-1) and earlier he was granted regular bail on 26.08.2019. However, on account of his illness, he could not appear before the trial Court on 21.10.2021,

accordingly, his bail was cancelled on the said date, i.e. 21.10.2021. Thereafter, the petitioner was re-arrested in the present case on 09.05.2022 and since then he is in custody. It is submitted that there was no intention on the part of petitioner to delay the proceedings. It is stated that the investigation in this case is complete, challan stands presented and even charges have been framed. Learned counsel contends that the total custody of the petitioner in the present case is one year, eight months and twenty seven days (as on 07.05.2023). Learned counsel submits that the petitioner undertakes to appear on each and every date of hearing before the trial Court and he is also ready and willing to abide by all the conditions as may be imposed by this Court or by the trial Court. Hence, prayer for regular bail is made.

7. Learned State counsel opposes prayer of the petitioner for regular bail by stating that the petitioner had jumped the bail and had not followed the conditions of bail, thus petitioner is not entitled to any relief. He submits that as per custody certificate dated 07.05.2023, two more cases, being FIR No.115 dated 14.03.2022, under Section 25 of the Arms Act, registered at Police Station Murthal, Sonipat and FIR No.167/2018, under Section 379-A of the Indian Penal Code, registered at Police Station Model Town, Panipat, are also registered against the petitioner, however, it is fairly stated that the petitioner is on bail in the aforesaid case FIR No.115 dated 14.03.2022 and he has been acquitted in the other case FIR No.167/2018. Further, while relying upon the aforesaid custody certificate, learned State counsel submits that the petitioner has undergone actual custody for a period of one year, eight months and twenty seven days in the present case (as on 07.05.2023).

8. I have heard the arguments of learned counsel for the petitioner as well as learned State counsel and have also perused the paper book as well as custody certificate of the petitioner.

9. In the present case, the petitioner was earlier arrested and then was granted regular bail, however, his bail was cancelled on account of his non-appearance before the trial Court on 21.10.2021, due to his illness. Petitioner was re-arrested in this case on 09.05.2022. The total custody of the petitioner is one year, eight months and twenty seven days (as on 07.05.2023). Investigation in this case is complete, challan stands presented and even charges have been framed. Hence, trial is likely to take some time to conclude and no useful purpose would be served by keeping the petitioner behind bars for an indefinite period.

10. Keeping in view the aforementioned circumstances, the instant petition is allowed and the petitioner is ordered to be released on regular bail subject to his furnishing fresh bail/surety bonds to the satisfaction of the Chief Judicial Magistrate/Illaq Magistrate/Duty Magistrate concerned. However, the concerned Station House Officer shall be informed about the release of petitioner and the petitioner shall inform the concerned Station House Officer about his address at which he intends to reside during the pendency of case/trial and any change in the address shall be communicated to the concerned Station House Officer, forthwith. The petitioner would also furnish his telephone number to the concerned Station House Officer. He would also furnish his undertaking to the effect that he will not indulge in any illegal activity. The petitioner shall also appear before the concerned Police Station/Station House Officer on first Monday of every month till the conclusion of trial.

11. In addition, the petitioner (or anyone on his behalf) shall prepare a Fixed Deposit Receipt (F.D.R.) in the sum of Rs.50,000/- and submit the same with the trial Court. The same would be liable to be forfeited as per law, in case the petitioner remains absent from trial without any sufficient cause.

12. Nothing expressed hereinabove shall be construed to be an observation on merits of the case and the facts and circumstances recorded above are only for consideration of the prayer for bail at this stage.

13. The petition is accordingly disposed of.

09.05.2023
Apurva

(HARSH BUNGER)
JUDGE

1. Whether speaking/reasoned : Yes/No
2. Whether reportable : Yes/No