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(224)
IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-29940-2023
Date of Decision: 22.08.2023

JAGDEV DASS @ JAGGU

... Petitioner

Versus

STATE OF PUNJAB

...Respondent

CORAM: HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present: Mr. G.S. Gill, Advocate
for the petitioner.

Mr. Kirat Singh Sidhu, 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.0035 dated 14.02.2023 registered under Sections 458, 323, 379-B, 511 and 506 IPC at Police Station Kotwali Patiala, District Patiala.

2. The brief facts of the case are that the instant FIR was registered on the basis of the statement of Ramesh Kumar son of Shri Mela Ram who stated that on 13.02.2023 after closing his shop while he was going towards his house carrying an amount of Rs.50,000/- in his bag, he noticed two persons on a motorcycle chasing his Activa. As he reached home, opened the gate and parked his scooter, the pillion rider of the said motorcycle attacked him by showing him a pistol like object. When the said assailant tried to snatch his bag, he identified him (assailant) to be Jagdev Dass @ Jaggu (petitioner) who used to visit his shop earlier to take Karyana goods. On raising an alarm, Varun son of Rajinder Kumar, his (complainant's) nephew

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came to the spot along with other neighbours. On seeing the crowd, the accused fled away from the spot. Meanwhile the said accused jumped from the roof of the house and ran away.

Pursuant to the registration of the FIR, the investigation began and a mobile phone of the accused was recovered from the spot. It transpired that the accused who had jumped from the roof had received injuries and was admitted at Rajindera Hospital, Patiala. When the Investigating Agency approached the said Hospital, it was revealed that the injured accused had been discharged.

Meanwhile, secret information was received that Jagdev Dass @ Jaggu (petitioner) was standing outside the Rajindera Hospital, Patiala. He was apprehended and disclosed the name of his co-accused as Kulwinder Singh alias Kinda. During the course of investigation, Kulwinder Singh alias Kinda was nominated as an accused. The recovery of a toy pistol came to be effected from the petitioner.

Thereafter, the report under Section 173 Cr.P.C. was presented against the petitioner.

3. The learned counsel for the petitioner contends that he has been falsely implicated in the present case. There is a delay of one day in the registration of the FIR which is fatal to the prosecution version. The question of the petitioner and his co-accused committing the offence and being able to run away from the spot does not arise in view of the fact that the occurrence purportedly took place in a crowded area. As the petitioner was in custody since 14.02.2023, none of the 17 prosecution witnesses had been examined so far and in the one other case registered against him, he has been granted

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the concession of bail by this Court vide order dated 09.11.2021 (Annexure P-3), his further incarceration was not required.

4. A status report dated 22.08.2023 by way of an affidavit of Sanjeev Singla, PPS, Deputy Superintendent of Police, Circle City-1 Patiala, District Patiala has been filed on behalf of the State by the learned counsel for the State. The same is taken on record. He contends that the petitioner along with his absconding co-accused Kulwinder Singh @ Kinda have committed a serious offence for which he is not entitled to the concession of bail. He, however, concedes that the petitioner was in custody since 14.02.2023, none of the 17 prosecution witnesses have been examined so far and in the other cases registered against him, he has been granted the concession of bail.

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

6. The veracity of the prosecution case against the petitioner shall be a matter of adjudication during the course of trial. Admittedly, the petitioner is in custody since 14.02.2023 and none of the 17 prosecution witnesses have been so far. Therefore, the trial of the present case is not likely to be concluded anytime soon. In the one other case registered against him, he has been granted the concession of bail by this Court vide order 09.11.2021 (Annexure P-3). In this situation, his further incarceration is not required.

7. Thus without commenting on the merits of the case, the present petition is allowed and the petitioner-Jagdev Dass @ Jaggu son of Harpal Dass is ordered to be released on bail on his furnishing bail bonds and surety bonds to the satisfaction of learned CJM/Duty Magistrate, concerned.

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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.50,000/- 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

22.08.2023

JITESH

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