

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

CRM-M-30474-2023

Date of Decision:-07.08.2023

Sandeep @ Sanjay @ Kala.

.....Petitioner.

Vs.

State of Haryana.

.....Respondent.

CORAM:- HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present:- Mr. Rakesh Gupta, Advocate for the Petitioner.

Mr. Kanwar Sanjiv Kumar, Assistant Advocate General,
Haryana.

JASJIT SINGH BEDI, J.(ORAL)

The Prayer in this petition under Section 439 Cr.PC is for the grant of regular bail in case FIR No.556 dated 26.10.2021 under Sections 395, 397, 450 IPC and Section 25 of Arms Act, 1959 and later on added Section 30/54/59 of Arms Act registered at Police Station Jind City, District Jind, Haryana.

2. The brief facts of the case are that statement of one Nitin Kumar was recorded to the effect that on 25.10.2021 he received a call from a person called Shibu who asked him (complainant) to meet him (Shibu) at the shop of Mukesh Giri. On the next day while he (Complainant) was present at his shop the boy named Shibu came to the shop and informed him (complainant) that Mukesh Giri and Wazir Peahalwan were calling him to their shop. He (complainant) went inside the shop of Mukesh Giri where he found 5/6 boys having firearms in their hands standing at the shop. He was

taken to an inner room where one Wazir Pehalwan was present along with Mukesh Giri. They told him that he had earned a lot of money. When he responded by saying that he did not have any money he was assaulted and a demand of Rs.25 lacs was raised. On the asking of the Wazir Pehalwan he (complainant) called his brother Vipul Goyal who also came to the shop. He was also given beatings and a demand of Rs.10 lacs to be paid immediately and Rs.5 lacs to be paid later was made. If the said amount was not paid, they (complainant and his brother) were to be killed. Thereafter he called his other brother Vikas asking for Rs.10 lacs. The accused meanwhile went to their (complainant party's) home and took a sum of Rs.10 lacs from his brother Vikas at pistol point. On coming back Mukesh Giri, Wazir Pehalwan, Shibu and other 3 / 4 boys stated that they would kill his (complainant's) brother Vipul and the entire family if the said incident was disclosed. Thereafter they fled away from the spot.

3. The Counsel for the petitioner contends that the petitioner is neither named in the FIR nor has any specific role been attributed to him. In fact there was nothing to inculcate the petitioner in the offence. The report under Section 173(2) Cr.PC stood submitted against the co-accused Wazir, Amit, Monu, Mukesh Giri, Naveen Pardeep, Shiv Kumar and Ram Mehar. Pursuant thereto the statements of the relevant witnesses had been recorded who had not supported the prosecution case leading to the grant of bail to the co-accused. As the petitioner was in custody since 25.04.2023 and the investigation stood completed qua him as well, he was entitled to the concession of bail.

4. The Counsel for the State on the other hand contends that the petitioner along with his co-accused have committed a grave offence. He however concedes that in the Trial against the co-accused 12 out of 25

prosecution witnesses have been examined including the material witnesses who have not supported the prosecution case. He however contends that as a supplementary challan had been presented against the petitioner there would be a denovo trial qua him and, therefore, no benefit could be taken by him of the fact that in the trial against co-accused all the witnesses had turned hostile.

5. I have heard the learned counsels for the parties and examined the record.

7. Admittedly, in the Trial against the co-accused all the witnesses have turned hostile consequent to which all the accused have been granted the concession of bail either by the Trial Court or by this Court. Some of the accused who have been granted bail have been specifically named in the FIR with specific attribution. So far as the petitioner is concerned, though it is true that there would be a denovo trial against him, the question of the prosecution witnesses supporting the prosecution case against the petitioner alone is highly unlikely. Even otherwise, the petitioner is in custody since 25.4.2023 and as many as 25 prosecution witnesses would have to be examined. In the other case registered against him he is stated to be on bail. In this view of the matter his further incarceration is not required.

8. Thus without commenting on the merits of the case, the present petition is allowed and the petitioner-**Sandeep @ Sanjay @ Kala** son of Sh. Omkari 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.

10. 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.

11. 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.

12. The petition stands disposed of.

(JASJIT SINGH BEDI)
JUDGE

August 07, 2023
Vinay

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No