

CRM-M-50947-2022 (O & M)

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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-50947-2022 (O & M)

Date of decision: 28.03.2023

Shiv Chopra

..... Petitioner

V/s

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present: Mr. Yashpal Thakur, Advocate,
for the petitioner.

Ms. Ramta Chaudhary, DAG, Punjab.

JASJIT SINGH BEDI, J. (Oral)

The prayer in the present petition under Section 439 Cr.P.C. is for the grant of regular bail to the petitioner in FIR No.237 dated 28.09.2021 under Sections 392, 448, 506 and 34 IPC (Sections 201, 379-B and 452 IPC added later on) and Section 25 of the Arms Act, 1959 registered at Police Station Sadar Kharar, District SAS Nagar, Punjab.

2. The brief facts of the case are that the statement of the complainant-Pardeep Singla was recorded to the effect that on 27.09.2021 while he was sitting at a shop alongwith his servant Lovekush, a person entered the shop with his face covered with a mask and asked for 05 litres of Mustard oil. On being told that the same was not available, two other persons also entered the shop. The first person threatened the complainant

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by showing him a weapon and demanded goods from his shop. Thereafter, grocery items were taken. Two other persons also entered the shop out of whom, one was wearing T-shirt. On lifting his T-shirt, a concealed weapon was shown to him (complainant). A demand was made for ration. Thereafter, the accused put the ration in a 05 kilo polythene bag and snatched the gold chain weighing about 02 tolas from his (complainant's) neck. They also took away a cash amount of Rs.30,000/- lying in the cash box, after which, they fled away from the spot.

3. During the course of investigation, information was received by the investigating agency that Shiv Chopra (petitioner), Mustkeem Ali, Salman Khan, Vijay Kumar and Karanveer Singh @ Karan had been arrested in FIR No.348 dated 02.10.2021 under Sections 382, 392, 379-B, 120-B IPC and Section 25 of the Arms Act registered at Police Station City Kharar and had disclosed during their interrogation that they had committed the present offence on 27.09.2021. Thereafter, the accused were taken into custody in the present case. All the accused were identified by the complainant. After the conclusion of the investigation, the report under Section 173 Cr.P.C. stands filed.

4. The learned counsel for the petitioner contends that there is no admissible evidence available against the petitioner. No recovery has been effected from him and he has been falsely implicated only on account of his confessional statement. As he was in custody since 11.10.2021 and none of the 12 prosecution witnesses had been examined so far, he was entitled to

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5. The learned counsel for the State, on the other hand, while referring to the short reply filed by way of an affidavit of Rupinderdeep Kaur Sohi, PPS, Deputy Superintendent of Police, Sub Division Kharar-I, District SAS Nagar (Mohali) dated 27.03.2023 contends that the case against the petitioner is well-established. The nature of the allegations against him did not entitle him to the grant of bail, moreso, when he was a habitual offender being involved in two other cases bearing FIR No. 348 dated 02.10.2021 under Sections 382, 392, 379-B, 120-B IPC and Section 25 of the Arms Act registered at Police Station City Kharar and FIR No.248 dated 30.06.2022 under Section 302 IPC registered at Police Station City Kharar.

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

7. The allegations against the petitioner shall be a matter of adjudication during the course of Trial. He is in custody since 11.10.2021 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. As such, his further incarceration is not required.

8. Thus, without commenting upon the merits of the case, the present petition is allowed and the petitioner, namely, Shiv Chopra, is ordered to be released on bail to the satisfaction of the Trial Court/Duty Magistrate concerned.

9. The petitioner shall appear on the first Monday of every month before the police station concerned till the conclusion of the trial and furnish an affidavit each time that he is not involved in any case other than the

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10. In addition, the petitioner (or through someone 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.

March 28, 2023
sukhpreet

(JASJIT SINGH BEDI)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No