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

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CRM-M-38301-2023

Date of decision : 18.10.2023

Sahil Beri @ Sahil

..... Petitioner

versus

State of Punjab

..... Respondent

CORAM : HON'BLE MR. JUSTICE PANKAJ JAIN

Present: Mr. Tarun Singla, Advocate
for the petitioner.

Mr. Amit Shukla, AAG, Punjab.

PANKAJ JAIN, J. (Oral)

1. Present petition has been filed under Section 439 Cr.P.C. for grant of regular bail to the petitioner in case bearing FIR No.141 dated 29.04.2023, registered for the offences punishable under Sections 307, 353 and 186 of IPC and Section 25 of Arms Act, 1959 at Police Station City Kharar, District SAS Nagar.

2. As per the allegations levelled in the FIR, it has been alleged as under:-

“Copy of Ruqa, Station House Officer City Kharar, “Jai Hind” today present SI alongwith C2 Karanvir Singh 2278/ SAS, C2 Om Parkash 1131 SAS under the supervision of Incharge CIA staff Inspector Shiv Kumar on a Government Vehicle bearing No. PB65-BC-2038 which was being driven by S/City Jatinder Singh 1205, SAS in connection with search of the accused persons in FIR No. 91 dated 26.04.2023 u/s 379B, 323, 506,

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341, 148, 149 IPC Police Station Sadar Kharar were present at Main Market Shivjot Enclave Kharar then special informer by coming present gave information that out of the accused of the aforesaid FIR one Sahil Berry s/o Vishal Berry to Village Kaluana, Police Station Goriwala, District Sirsa presently residing at Ayra Greens Kharar who in his car bearing No. HR-29-X-2205 make Honda City colour golden was roaming on the backside of Shivjot Enclave near Shivalik Apartment. If search is carried out of the aforesaid accused then he can be apprehended alongwith illegal weapons. At which present ASI alongwith Police Party were going towards Shivalik Apartment Kharar from the side of Shivalik Apartment aforesaid Car was seen coming in which one young person with shorn hair was inside. In order to stop his car Government Vehicle was positioned in front. He tried to race his car back but as the street was narrow his car got stuck. Present SI alongwith Police Party tried to apprehend the aforesaid accused alongwith the Car then the young person who was sitting on the driver seat of the car all of sudden got out of the car and with an intention to kill started firing with the pistol in his hand on present SI and C2 Karanvir Singh. Thereafter Incharge CIA staff in his self defense as well as in the defense of the police party by giving warning to the accused fired two shots in the air. But when the accused again tried to fire on the police party then Incharge CIA Staff from his service revolver fired one shot on the leg of the accused which hit him on the left leg below the knee and police party apprehended the injured accused and recovered one pistol .32 bore which he

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was holding in his hand and on unloading the same, two live cartridges from the Magazine and from the place of firing two empty cartridges of .32 bore were recovered. On asking by the present SI to the injured accused about he name, he told his name as Sahil Berry s/o Vishal Berry r/o Village Kaluana, Police Station Goriwala, District Sirsa, Haryana presently residing at Ayra Greens Kharar. Thereafter, present SI searching the car of the aforesaid accused from the conductor seat of the car out of one plastic bag recovered two pistols .32 bore and 5 live cartridges of .32 bore. Separate sketches of recovered pistols were prepared. Incharge CIA staff was requested to wait at the place of occurrence. Accused Sahil Berry by firing on the police party with an intention to kill has committed offence u/s 307, 353, 186 IPC and 25-54-59 Arms Act. So Ruqa after writing as being sent through S/city Jatinder Singh 1265 SAS to Police Station City Kharar for registration of FIR. After registration of FIR under the aforesaid offences against the aforesaid accused number of the same be intimated. Officers be informed on telephone. Special Reports be issued. Present SI alongwith fellow colleagues alongwith injured accused proceeds towards Civil Hospital Kharar for his treatment. Within the limits of near Gate Shivalik Apartment time 1.30 AM. Sd/- Deepak SI CIA Staff, District SAS Nagar dated 29.04.2023 M-No. 8054445361. On receipt of the Ruqa in the Police Station FIR under the aforesaid section was registered against Sahil Berry and record is being completed. Incharge Control Room is being informed through telephone. Copy of the FIR are

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being sent to Area Magistrate Sahib and Senior Officers as special report after preparation through ASI Amrik Singh 418/SAS. Case file alongwith original ruqa is being sent through S/City Jatinder Singh 1265/SAS to SI Deepak at the spot. Head Munshi Police Station is directed to complete the police record.”

3. Prior to the aforesaid FIR, an FIR No.91 dated 26.04.2023 was registered on the statement of Bhupinder Singh s/o Gurdial Singh alleging as under:-

“Statement of Bhupinder Singh s/o Gurdial Singh r/o House No. 19-A Amardas Avenue, Ajnala Road, Amritsar presently residing at Flat No. 23-C, Amyara City Kurali Road, Kharar aged about 55 years, Mobile No 84270 11000. Stated that I am resident of aforesaid address and I am posted as Patwari at Circle Sante Majra, on 24.04.2023 I alongwith my friend Sagar for some personal work on the vehicle of my friend Gholu bearing No. HR-26-BM-4904 make fortuner had gone to Mohali. And due to late night had stopped at the residence of my house Sagar. Where we both had meals and during the intervening night of 24/25.04.2023 at about 2 in the night started back for my flat in my car. Then near the show rooms of Amayara City Centre I met some person who wanted to go ahead of my society. At his asking I got him seated in my car and left him ahead of my society and when I was returning back to my flat then at around 2.30 AM. when I reached near the roundabout in my society then two cars in which about 10-12 persons were present, encircled my car by parking their cars in front and at the back of my car and at time

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headlights of both the cars were on. They alighted from the car and came on both sides of my car. All of them were having six sticks (dandas) wooden logs and baseball bats with them. On seeing them I got afraid and thereafter they by giving danda blows broke all the glasses of my car and then removed me from my car and gave me beatings with the dandas in their hands and threw me on the earth and these persons gave me fist blows and took out the pistol .32 bore make ordinance from my abdomen. It was having 5 cartridges and they also took out Rs. 14000/- from my pocket. When I raised Raula of Marta Marta then assailants alongwith their weapons fled from the spot by sitting in their cars. I can identity them if they come in front of me. The cars in which assailants came out of them one car was Honda City Colour of which in the dark was being seen as dark brown and other car was swift colour white. As both the cars had their lights on I could not read the numbers. Appropriate legal action be taken against the assailants. The pistol which had been snatched by the assailants, its licence no. is LN2853B7A2B321/CP/ASR/ARM/CT/0321/016 and which valid from 06.03.2021 to 05.03.2026 and whose UIN No. is 285371003223972021. The car which has been damaged by the assailants, it is standing at the side on the spot. After the incident I called my friend Sagar at the spot who got me admitted for treatment at Civil Hospital Kharar, where doctor Sahib has told about fracture in my right arm and now I with my own free will have got myself admitted at Kaushal Hospital Kharar. Where you have come. Statement has been got recorded to you, heard and

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is correct. Assailants at the time of leaving threatened me that if I tell anything to the police they would physically liquidate me. Appropriate Legal Action be taken against the assailants. Sd/- Bhupinder Singh Attested. Sikander Singh ASI P.S Sadar Kharar dated 26.04.2023. Action of the police:- Yesterday MHC Police Station had given one medical ruqa bearing MLR No. MS/KH/7823 pertaining to Bhupinder Singh s/o Gurdial Singh for action. At which present ASI alongwith colleagues reached Civil Hospital Kharar for obtaining the statement of injured. But, on duty Doctor Sahib orally told us that injured had LAMA and today we got information about the injured that he was admitted at Kaushal Hospital Kharar. At which present ASI alongwith Senior Constable Balwinder Kumar 920/SAS Nagar and PHG Hari Singh for recording statement reached Kaushal Hospital Kharar and for obtaining the statement of the injured sought written opinion from the doctor sahib on duty. Doctor Sahib declared injured fit for giving statement. At which by going near the bed of the injured his statement was recorded word by word and was read over to him who after hearing it, reading it and finding to be correct appended his signature in English below the statement which were attested by me. In the MLR of the injured Doctor Sahib has written a total of 6 injuries which all are blunt and have been kept for opinion. From the statement and MLR offence u/s 379B, 323, 506, 341, 148, 149 IPC are made out. Therefore, statement for registration of FIR against aforesaid 10-12 unknown persons is being sent through PHG Hari Singh to the Police Station. After registration

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of the FIR No. of the same be intimated. Present ASI alongwith colleagues is busy in investigation. Within the limits of:- Kaushal Hospital Kharar at 8.30 PM. Sikandar Singh ASI P.S. Sadar Kharar dated 26.04.2023. On receipt of the statement aforesaid FIR is registered at 10-12 unknown persons and record is being completed. Copy of the FIR are being sent through post to Area Magistrate Sahib Kharar and Officers. Incharge Control Room SAS Nagar is being informed on telephone. Original statement alongwith FIR is being sent through arrived PHG Hari Singh to the Investigating Officer, ASI Sikandar Singh at the spot. Munshi Police Station is directed to complete the record.”

4. The pistol used in the occurrence related to FIR No.141 is the one which is alleged to have been snatched in the occurrence leading to FIR No.091. Petitioner is stated to be a student aged 25 years.

5. Counsel for the petitioner submits that the petitioner already stands admitted to bail in FIR No.91 dated 26.04.2023 vide order dated 26.05.2023 passed by the Courts below. The petitioner is behind bars for more than 05 months and 12 days. Challan stands presented and the witnesses are official only, thus there cannot be any apprehension that the petitioner shall tamper with the evidence. His custody should not be prolonged as a punitive measure.

6. Keeping in view the fact that challan already stands presented and the incarceration already suffered by the petitioner, the present petition is allowed. Petitioner is ordered to be released on regular bail on his furnishing bail/surety bonds to the satisfaction of the

Ld. Trial Court/Duty Magistrate, concerned.

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7. Needless to say nothing recorded herein shall be construed to be an expression of an opinion on the merits of the case.

(PANKAJ JAIN)
JUDGE

18.10.2023
Dinesh

Whether speaking/reasoned :	Yes
Whether Reportable :	No