

220-3

IN THE HIGH COURT OF PUNJAB & HARYANA AT  
CHANDIGARH

CRM-M No. 40622 of 2023 (O&M)

Date of Decision:- 21.11.2023

NISHU KAINTH @ VISHU KAINTH

... Petitioner

Versus

STATE OF PUNJAB

... Respondent

CORAM:- HON'BLE MR. JUSTICE SANJIV BERRY.

Present:- Mr. Lakshay Bector, Advocate for the petitioner.

Mr. Subhash Godara, Addl. AG. Punjab.

Mr. Saurav Kanojia, Advocate for the Complainant.

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SANJIV BERRY, J. (ORAL)

The instant petition has been preferred by the petitioner under Section 439 of the Code of Criminal Procedure for grant of regular bail to the petitioner in case FIR (Annexure P-1):-

| FIR No. | Dated      | Sections                                                | Police Station           |
|---------|------------|---------------------------------------------------------|--------------------------|
| 93      | 26.06.2022 | 307, 148, 149, 506 and 120-B and Section 25 of Arms Act | Division No.3, Ludhiana. |

2. Brief facts of the case put forth by the prosecution are that Kranti- complainant father of the injured states that his son Kartik Baggan was going to Manohar Nagar, Ludhiana to leave his aunt on motor-cycle and complainant was also following his son on another motor-cycle when they reached near Jain Public School near Benjamin Road, CMC Chowk,

Ludhiana, then on the opposite 8-10 persons were standing on the three motorcycles on the road, out of them Karan Kalia, Vishnu Kainth, Kamal, Kunal Sharma, Dikshant Tandon, Nik Oberoi, Billa Wadda, Karan Sharma, Raman Rajput, Neeraj Rajput stopped the motorcycle of complainant's son and surround him and his son's motorcycle and talked on video call to Shivam Mota and Rishab Benipal saying to complete the task to kill Kartik today and in the meantime Karan Kalia took the pistol and fired two shots on Kartik with an intention to kill him, on raising alarm "marta-marta" all the above persons ran away, complainant saw a lot of blood coming out from the right side of his lower back of his son, after arranging the transportation Kartik was brought for treatment at CMC Hospital, Ludhiana and hence the FIR was registered.

3. It is *inter alia* contended by learned counsel for the petitioner that the petitioner is innocent and has been falsely implicated in this case. It is further contended that no injury has been attributed to the petitioner except that he is the member of unlawful assembly. It is further contended that a compromise has been effected between the parties and now nothing remains due towards both the parties and hence prays for grant of concession of regular bail. He submits that petitioner was apprehended on 10.08.2022 and is behind bars and useful purpose would be served by further detention of the petitioner in custody as such he prays for grant of concession of regular bail.

4. On the other hand, learned State counsel has filed reply by way of affidavit dated 04.11.2023 of Assistant Commissioner of Police, Ludhiana (Central), the same is taken on record, copy thereof has been

supplied to the counsel opposite. Learned State counsel has opposed the bail application by arguing that he is the member of unlawful assembly. As per custody certificated dated 20.11.2023, petitioner is in custody since 10.08.2022 and five other criminal cases are pending against the petitioner.

5. Mr. Saurav Kanojia, has put in appearance on behalf of complainant and filed Power of Attorney, the same is taken on record. Learned counsel for complainant submits that the matter has been settled amicably between the parties and as such he has no objection, if the bail petition of the petitioner is allowed.

6. After considering the rival contentions and perusing the record, it transpires that the present FIR was lodged on 26.06.2022 on the basis of the statement of the complainant -Kranti and no injury is attributed to the petitioner except that he was a part of the unlawful assembly. It is also admitted that as per statement made by counsel for the complainant, the matter has been amicably settled between the parties and he has no objection, if the bail petition is allowed. The petitioner is in custody since 10.08.2022, challan has already been presented in the Court and conclusion of trial will take sufficient long time and no useful purpose would be served by keeping the petitioner behind bar any longer. The criminal liability, if any, to the petitioner would be ascertained after conclusion of trial, which may take sufficient long time.

7. Consequently, without commenting on the merits of the case, the present petition is allowed. The petitioner is ordered to be released on bail subject to furnishing bail bonds/surety bonds to the satisfaction of learned Trial Court concerned, if not required in any other case; undertaking

to regularly appear on each and every date; not to leave the country without prior permission of the Court; and not to tamper with evidence of prosecution in any manner.

8. Any observation made above shall not be construed as opinion of this Court on the merits of the case.

(SANJIV BERRY)

JUDGE

21.11.2023

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|-----|----------------------------|--------|
| i)  | Whether speaking/reasoned? | Yes/No |
| ii) | Whether reportable?        | Yes/No |