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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-41601-2023 (O & M)
Date of decision: 29.08.2023

Shiv Chopra

.... Petitioner

V/s

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present: Mr. Vishal Sharma (Varusdeva), Advocate,
for the petitioner.

Ms. Ramta K 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 case FIR No.348 dated 02.10.2021 under Sections 382, 392, 379-B, 120-B and Section 473, 413, 451 (added later on) IPC and Sections 25, 54, 59 of the Arms Act registered at Police Station City Kharar, SAS Nagar, Punjab.

2. The brief facts of the case are that while police party was on patrolling duty, secret information was received that Shiv Chopra (petitioner), Vijay Kumar (since granted bail vide order dated 11.01.2023 passed in CRM-M-46026-2022), Mustkeen Ali (since granted bail vide order dated 16.12.2022 passed in CRM-M-6882-2022) and Salman Khan (since granted bail vide order dated 14.03.2023 passed in CRM-M-11558-2023) had formed a gang and were habitual of looting at gun-point. They were in possession of illegal weapons and would commit snatching in the areas closed to Kharar and on that day, they were likely to commit an offence for which they had got together on the backside of Jamuna Apartments. They

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were on separate motorcycles bearing No.PB-65-AC-3369 Make Hero colour Black and PB-65AP-7911 make Pulsar Black colour alongwith a Scooter bearing No. PB-27E-1100 Scooter White colour. If a raid was conducted, they could be apprehended with deadly weapons.

Based on the information, the FIR came to be registered against the accused persons. During the course of investigation, the petitioner came to be arrested.

3. The learned counsel for the petitioner submits that the petitioner has been falsely implicated in the present case. No offence has been committed as alleged in the FIR. He is in custody since 03.10.2021 and none of the 16 the prosecution witnesses have been examined so far, and therefore, the Trial of the present case is not likely to be concluded anytime soon. There are three other cases registered against him bearing FIR No.237 dated 28.09.2021 under Sections 392, 448, 506, 34 IPC and Sections 25-54-59 of the Arms Act, Police Station Sadar Kharar wherein he has been granted the concession of bail by this Court vide order dated 28.03.2023 passed in CRM-M-50947 (Annexure P-5), in FIR No.307 dated 20.08.2021 under Section 379-B, 201 and 413 IPC, Police Station City Kharar, he has been granted bail vide order dated 20.01.2023 passed by the Additional Sessions Judge, SAS Nagar (Annexure P-6) and FIR No.248 dated 30.06.2021 under Section 302 IPC, Police Station City Kharar. He, thus, contends that the petitioner be granted the concession of bail in the present case as well, moreso, when his co-accused, namely, Mustkeem Ali, Vijay Kumar, Salman Ali @ Salman Khan and Karanveer Singh have been granted the similar concession vide orders Annexures P-7 to P-10 respectively.

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4. The learned counsel for the State, on the other hand, contends that the allegations against the petitioner and his co-accused are serious. He is a habitual offender. In the present case, two gold chains, one artificial chain, one toy pistol and Rs.25,000/- have been recovered from him. Therefore, the petitioner did not deserve the concession of bail looking at the serious nature of the allegations against him. She, however, admits the fact that the co-accused of the petitioner, namely, Mustkeem Ali, Vijay Kumar, Salman Ali @ Salman Khan and Karanveer Singh have been granted the similar concession vide orders dated 16.12.2022, 11.01.2023, 14.03.2023 and 09.05.2023 respectively (Annexures P-7 to P-10).

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

6. Admittedly, the petitioner is in custody since 03.10.2021 and none of the 16 prosecution witnesses have been examined so far. In two of the three FIRs registered against the petitioner, he has been granted the concession of bail. The veracity of the allegations against the petitioner shall be adjudicated upon during the course of Trial. At this stage, the further incarceration of the petitioner is not required, moreso, when his co-accused, namely, Mustkeem Ali, Vijay Kumar, Salman Ali @ Salman Khan and Karanveer Singh have been granted the similar concession vide orders dated 16.12.2022, 11.01.2023, 14.03.2023 and 09.05.2023 respectively.

7. 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.

8. The petitioner shall appear on the first Monday of every month before the police station concerned till the conclusion of the trial and furnish

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an affidavit each time that he is not involved in any crime other than the cases referred to hereinabove.

9 In addition, the petitioner (or someone on his behalf) shall prepare an FDR in the sum of Rs.1,00,000/- 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.

(JASJIT SINGH BEDI)
JUDGE

August 29, 2023
sukhpreet

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No