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(223) IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-42141-2023 (O & M)
Date of Decision: 01.09.2023

Sumit Kumar
... Petitioner

Versus

State of Punjab
...Respondent

CORAM: HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present: Mr. Vikas Soonak, Advocate
for the petitioner.

Mr. Kirat Singh Sidhu, DAG, Punjab.

JASJIT SINGH BEDI, J.

The prayer in the present petition under Section 439 Cr.P.C is for the grant of regular bail to the petitioner in case bearing FIR No.0004 dated 15.07.2022 under Sections 384, 153, 153-A, 120-B, 212, 216 IPC and Section 25 of the Arms Act, 1959 and Sections 3, 4, 5 of the Explosive Substances Act, 1908 (added later on), registered at Police Station State Special Operation Cell, SAS Nagar, District Intelligence Wing (CID), Punjab.

2. The brief facts of the case are that SI Harminder Singh, SSOC, Mohali had received secret information that Arshdeep Singh alias Arsh Dala and Gurjant Singh alias Janta against whom a number of cases were pending, had gone abroad on fictitious passports and were indulging in illegal activities in connivance with the agents of the ISI (Inter-Services Intelligence of

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Pakistan). They had supplied a heavy quantity of arms and ammunition to their accomplices in India and were targeting the people for ransom with an intention to create communal tensions in Punjab, they alongwith the agents of the ISI were likely to target the leaders of religious associations and political parties thereby disturbing peace in the society. Accordingly, the instant FIR came to be registered.

During the course of investigation, secret information was received on 28.07.2022 by the investigating agency that Shahrukh Khan (since granted bail vide order dated 11.08.2023 passed in Crm-M-52819-2022) and one Sumit Kumar (petitioner) were constantly in touch with the abovementioned accused. The petitioner and Shahrukh Khan had been promised a payment of Rs.8 lacs by Arsh Dalla and Gurjant Singh. On that date i.e. 28.07.2022, the petitioner and Shahrukh Khan were roaming at the Airport road on a motorcycle bearing No.HR-79C-9707 and had come to collect ransom from some persons at the asking of Arsh Dalla. Accordingly, the petitioner and Shahrukh Khan were nominated as accused in the present case and were arrested on 28.07.2022.

During search of Shahrukh Khan, one .315 bore loaded with one live cartridge alongwith two other live cartridges came to be recovered from him. Similarly, from the petitioner one pistol .32 bore pistol having four live cartridges in it were recovered. During the investigation, the petitioner and his co-accused revealed that they had been in contact with Arsh Dalla and

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were to kill a person in Mohali for a sum of Rs.8. Thereafter, certain other persons were also to be targeted but they had been apprehended by the police.

During the course of further investigation, Jagatbir Singh @ Jagta, Dalvir Singh Dhira, Ravinder Singh @ Giana, Deepak Sharma, Sandeep, Vipin Jakhar and Sunny Dagar were nominated as accused in the instant case.

From accused-Deepak Sharma, one 9mm pistol alongwith 25 live cartridges and grenades were recovered and from Sandeep Singh grenades alongwith IED were recovered. Thereafter, the report under Section 173 Cr.P.C. was submitted against the accused.

3. The learned counsel for the petitioner contends that there is no offence whatsoever that has been committed other than under the Arms Act. The FIR is based on suspicion. There is no complaint, complainant or witness to the purported assassination attempt or extortion. As the petitioner was in custody since 28.07.2022, none of the prosecution witnesses had been examined so far and some of the co-accused had been released on bail under Section 167(2) Cr.P.C., the petitioner was entitled to the same concession. Even otherwise, co-accused/Shahrukh Khan had been granted bail by this Court vide order, Annexure P-3.

4. The learned counsel for the State, on the other hand, contends that the petitioner is a part of large gang indulging in anti-national activities. Therefore, the nature of the allegations levelled against him did not entitle him to the grant of bail. He, however, concedes that only a weapon has been

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recovered from the petitioner and that some of the co-accused including Shahrukh Khan have been granted the concession of bail.

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

6. The veracity of the prosecution case against the petitioner shall be adjudicated upon during the course of trial. Admittedly, the petitioner is in custody since 28.07.2022 and none of the 14 prosecution witnesses have been examined so far. Therefore, the trial of the present case is not likely to be concluded anytime soon. Some of his co-accused including Shahrukh Khan have also been granted the concession of bail. In this view of the matter, the further incarceration of the petitioner is not required.

7. Thus without commenting on the merits of the case, the present petition is allowed and the petitioner-Sumit Kumar 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.

8. 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 case(s) referred to in this order.

9. In addition, the petitioner (or anyone 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.

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- 10. The petitioner shall deposit his Passport with the Trial Court immediately, if not already done so.
- 11. The petition stands disposed of.

(JASJIT SINGH BEDI)
JUDGE

September 01, 2023
sukhpreet

Whether speaking/reasoned:- Yes/No
Whether reportable:- Yes/No