

**IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH.**

CRM-M-45697-2023

Date of Decision:-17.11.2023

Pawan @ Khunta @ Praveen.

.....Petitioner.

Vs.

State of Haryana.

.....Respondent.

CORAM:- HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present:- Mr. G.S. Brar, Advocate for the Petitioner.

Mr. Kanwar Sanjiv Kumar, Assistant Advocate General,
Haryana.

JASJIT SINGH BEDI, J.(ORAL)

The Prayer in this second petition under Section 439 Cr.PC is for the grant of regular bail in case FIR No.325 dated 26.08.2020 under Sections 307 and 34 IPC and Section 25 of the Arms Act (to which Section 307 and 34 IPC were deleted and Sections 195, 323, 506 and 120-B IPC were added later on) registered at Police Station Hodal, District Palwal, Haryana.

2. The aforementioned FIR came to be registered on the statement of complainant Lalit Kumar. In his statement, Lalit Kumar alleged that on 17.08.2020 when he alongwith his friend Satish and his mother was going to the bank on a motor cycle, accused Surinder, Mahesh, Mohit and Kailash along with their two companions, who were standing with their motor cycle near the T-Point of Khera Mandir and Chint Mandir, stopped their motor cycle and attacked them (complainant party). Mahesh fired a gunshot from his gun on Satish which did not hit Satish but hit his (complainant's) leg. Thereafter Satish and Anil took him (complainant) to the hospital where he was treated.

During the course of investigation on 16.10.2020 Satish and

Anil were first arrested in FIR No.378 dated 25.09.2020 under Sections 148, 149, 323, 506 IPC and Sections 25/54/59 of Arms Act, P.S. Hodal and were interrogated. They suffered their disclosure statement admitting the fabrication of the firearm injury on Lalit Kumar (original complainant of the present FIR-now an accused) with an intent to procure the conviction of Mahesh, Mohit, Kailash, Surender, Neetu and Akash. They also disclosed the names of their co-accused as Pawan (petitioner), Mungi, Lambu-Rohit, Patra, Lalit @ Lallu, Fuda and Bhola.

On the basis of the evidence Sections 307, 34 IPC were substituted with Sections 323, 506, 195, 120-B IPC on 17.10.2020. On 18.10.2020 co-accused Lalit Kumar @ Lallu the original complainant was arrested in the present case. Another co-accusedn Rohit @ Lambu was also arrested.

On completion of the investigation qua the accused Satish, Anil, Lalit @ Lallu and Rohit the final report under Section 173(2) Cr.PC was filed against them on 28.01.2022 for the offences punishable under Sections 195, 120-B IPC and Section 25 of the Arms Act.

On 17.04.2022 accused Rajesh @ Patra was arrested. On 24.05.2022 accused Pawan @ Khunta (petitioner) was taken on production warrants from District Jail Neemka where he was confined in some other case and was arrested. He disclosed that he had got recovered a countrymade pistol in FIR No.166 dated 9.4.2022 under Section 25 of the Arms Act. On the completion of the investigation qua the petitioner, the report under Section 173(8) Cr.PC was submitted on 5.7.2022.

On 10.07.2023 accused Yogesh @ Yogi was arrested. ON 23.08.2023 accused Tanuj @ Bhola was joined in the investigation after he was granted anticipatory bail. Accused Pardeep @ Fudda had died on 13.10.2020. On completion of the investigation qua the accused Tanuj @ Bhola and Yogesh @ Yogi the report under Section 173(8) Cr.PC was filed against them on 28.08.2023.

The Charge against the petitioner was framed on 06.03.2023 under Sections 195, 323, 506, 120-B IPC.

3. The learned counsel for the petitioner contends that the petitioner has been falsely implicated in the present case. He has not been named in the FIR and has been impleaded later on in the disclosure statement of his co-accused. As he was in custody since 24.05.2022, only

01 out of the 19 prosecution witnesses had been examined so far and 07 of his co-accused had been granted the concession of bail, he was entitled to the similar concession.

4. The Counsel for the State on the other hand has filed a reply by way of a Status report of Mr. Sajjan Singh, DSP, Palwal dated 15.11.2023 and the same is taken on record. While referring to the reply he contends that it was the petitioner who in conspiracy with the others had fired on the leg of Lalit (original complainant) with a country made pistol with an intent to procure the conviction of Mahesh, Mohit, Kailash and Surender (originally named in the FIR), Neetu and Akash under Section 307 IPC. A country made pistol had also been recovered from him in FIR No.166 dated 9.4.2022 under Section 25 of the Arms Act P.S. Hodal. He was an accused in a number of cases. He was an undertrial in 07 other cases. Therefore, he was not entitled to the concession of bail. However, the State Counsel fairly concedes that the petitioner is in custody since 24.05.2022, only 01 of the 19 prosecution witnesses had been examined so far with and that some co-accused of the petitioner have been granted the concession of bail.

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

6. The veracity of the prosecution case against the petitioner and his co-accused shall be adjudicated upon during the course of the Trial. Admittedly, the petitioner is in custody since 24.05.2022 and only 01 of the 19 prosecution witnesses has been examined so far. Therefore, the Trial of the present case is not likely to be concluded anytime soon. 07 of the co-accused of the petitioner have already been granted the concession of bail. In this situation merely because there are other cases pending against the petitioner would not be a ground to deny bail to him when in all those cases he has already been granted the concession of bail as is apparent from the affidavit dated 15.11.2023.

7. Thus without commenting on the merits of the case, the present petition is allowed and the petitioner-**Pawan @ Khunta @ Praveen** son of Sh. Lakhani 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.

10. 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

cases mentioned in the affidavit dated 15.11.2023.

11. 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.

12. The petition stands disposed of.

**(JASJIT SINGH BEDI)
JUDGE**

November 17, 2023

Vinay