

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

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**CRM-M-50152 of 2023
Date of Decision: 20.11.2023**

Navjot Singh @ Joti

..... Petitioner

Versus

State of Punjab

..... Respondent

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr. Ishan Gupta, Advocate
for the petitioner.

Mr. Kunal Muthreja, AAG, Punjab.

VIKAS BAHL, J (ORAL)

1. This is a second petition under Section 439 Cr.P.C. for grant of regular bail to the petitioner in FIR No.81 dated 07.05.2022, under Sections 307, 353, 186 and 34 IPC; Section 21(c) of the Narcotic Drugs and Psychotropic Substances Act, 1985; and Section 25 of the Arms Act (offence under Section 473 IPC has been added later on), registered at Police Station Sadar Faridkot, District Faridkot.

2. Learned counsel for the petitioner has submitted that the petitioner has been in custody since 14.05.2022 and out of 37 witnesses, none have been examined and even the charges have not been framed and thus, the trial is likely to take time. It is submitted that the previous bail application of the petitioner was dismissed as withdrawn on 19.01.2023 and even thereafter, subsequent time has elapsed yet no witness has been examined and the trial has not made any progress, thus, entitling the petitioner to file the present petition.

3. Learned counsel for the petitioner has argued that the petitioner was not named in the FIR, and as per the case of the prosecution, was neither apprehended at the spot, nor any recovery of pistol or narcotic drug has been effected from the petitioner. It is submitted that the petitioner has no link with the Etios Car in which four persons, who have been named in the FIR i.e., Kuldeep Singh @ Keepa, Sukhchain Singh @ Bhujia, Sukhmander Singh @ Kala and Sewak Singh, were travelling and were apprehended as per the case of the prosecution. It is stated that in the present case, no injury has been caused to any person, much less, the police officials and the petitioner is not an accused in the RPG attack case that took place in Mohali.

4. Learned counsel for the petitioner has further submitted that as per the challan dated 07.05.2022 (Annexure P-3), the petitioner has been implicated on the basis of the disclosure statement of co-accused Kuldeep Singh @ Keepa and the only allegation against the petitioner, as per the disclosure statement of accused Kuldeep Singh @ Keepa, is that the present petitioner had accompanied him to Madhya Pradesh at the time of bringing the weapons. It is reiterated that no recovery of any weapon or of any narcotic drug has been effected from the petitioner and there is no allegation against the petitioner to the effect that he was involved in the recovery of 1 kg. heroin, which was effected from the four persons, who were apprehended at the spot. It is, thus, submitted that the highest case against the petitioner would attract offences under Sections 25 & 27 of the Arms Act, regarding which also there was no recovery of any firearm from the petitioner. It is further contended that even the offences under Sections 307, 353 and 186 IPC, either stand alone, or with the aid of Section 34 IPC, are not made out against the petitioner, inasmuch as, it is not the case of the

prosecution that there was any prior conspiracy/common intention of attacking the police party and in fact, as per the FIR, police apprehended four persons, who have been named in the FIR, when they were patrolling in order to check suspicious persons and the entire incident took place in the heat of the moment. It is further submitted that there is no material against the petitioner other than the disclosure statement of the co-accused, which in itself is not sufficient to convict the petitioner.

5. It is further submitted that co-accused of the petitioner, namely, Manpreet Singh @ Patwari and Gurjinder Singh @ Gurinder Singh @ Baba have already been granted the concession of regular bail by this Court, vide order dated 25.09.2023 in CRM-M-46055-2023 and CRM-M-23220-2023 respectively.

6. On the other hand, learned State Counsel has opposed the present petition for grant of regular bail and has submitted that as per the version given in the FIR, the police party were in a Government Vehicle for checking and patrolling suspicious persons and activities of gangsters and at about 7.30 p.m., it was found that from the side of village Bhana, one car was seen coming and ASI Jasveer Singh, signalled the said car to stop by flashing a torch light, then, the car occupants, instead of stopping the car, tried to run away from the spot and thereafter, Inspector-Harbans Singh, who is the complainant in the FIR, along with other officers, who were standing on blockade No.2, parked the Government vehicle in between the road, but the accused persons, while trying to escape, smashed their car against the Acacia trees and the ignition of their car went off and thereafter, the occupants of the car fired 2-2 shots with the intention to kill and the police party in order to save themselves, fired 2 shots in the air from their service rifles and then, the car occupants tried to escape from the spot after

opening doors of the car, but all the four persons were apprehended from the Etios car. The said four persons are Sewak Singh, Kuldeep Singh @ Keepa, Sukhchain Singh alias Bhujia and Sukhmander Singh @ Kala and the recovery of four pistols along with seven live cartridges, two pellets and 1 kg. of heroin was effected from them. It is also submitted that the offence committed by the accused persons was heinous and during interrogation, Kuldeep Singh @ Keepa who was apprehended at the spot, named the present petitioner and stated that the present petitioner accompanied the said Kuldeep Singh @ Keepa to Madhya Pradesh to bring the weapons and thus, the petitioner is also involved in the supply of weapons. It is submitted that the petitioner is involved in three other cases and thus, does not deserve the concession of bail. However other facts, as highlighted by learned counsel for the petitioner, have not been disputed.

7. Learned counsel for the petitioner, in rebuttal, has submitted that the petitioner is on bail in all the other three cases and has further relied upon the judgment of Hon'ble Supreme Court in ***“Maulana Mohd. Amir Rashadi Vs. State of U.P. and another”***, reported as 2012 (2) SCC 382 to contend that the facts and circumstances of the present case are to be seen while deciding a bail application and the bail application of the petitioner cannot be rejected solely on the ground that the petitioner is involved in other cases. The relevant portion of the said judgment is reproduced hereinbelow:-

“As observed by the High Court, merely on the basis of criminal antecedents, the claim of the second respondent cannot be rejected. In other words, it is the duty of the Court to find out the role of the accused in the case in which he has been charged and other circumstances such as possibility of fleeing away from the jurisdiction of the Court etc.”

8. This Court has heard learned counsel for the parties and has gone through the paper-book.

9. In the present case, the petitioner has been in custody since 14.05.2022 and the investigation is complete and the challan has been presented and there are 37 witnesses of which none have been examined and thus, trial is likely to take time. All the witnesses are stated to be official witnesses and thus, the question of the petitioner influencing them does not arise. It is not disputed that neither the petitioner was named in the FIR nor apprehended at the spot, nor, any recovery of pistol or narcotic drug has been effected from him and that the petitioner is not connected to the Etios car, in which, the four named accused persons were travelling at the time of the incident. No injury has been inflicted on any person, much less, to the police officials in the present case. The petitioner is not stated to be accused in the RPG attack case that took place in Mohali. The argument of learned counsel for the petitioner, to the effect, that the question of there being any common intention, so as to invoke offences under Section 307, 353 and 186 IPC with the aid of Section 34 IPC, does not arise as he was neither at the said spot nor, as per the case of the prosecution, there was any prior conspiracy/common intention for attacking the police as the entire incident took place in the heat of the moment, cannot be outrightly rejected. The said argument would be considered during the course of trial and this Court does not wish to give any final opinion on the said aspect. The petitioner has been nominated on the basis of disclosure statement of co-accused Kuldeep Singh @ Keepa and as per the said statement, there is no allegation that he was involved in the recovery of the narcotic drug. The allegation against the petitioner is that he had accompanied the said Kuldeep Singh @ Keepa to Madhya Pradesh to bring the weapons. It is not

in dispute that no recovery of any weapon has been effected from the petitioner. The question as to whether the disclosure statement of the co-accused implicating the petitioner would be sufficient to convict the petitioner in the present case, would finally be considered during the course of trial.

10. Keeping in view the above-said facts and circumstances as well as in view of the law laid down in *Maulana Mohd. Amir Rashadi's case (supra)*, the present petition is allowed and the petitioner is ordered to be released on bail on his furnishing bail/surety bonds to the satisfaction of the concerned trial Court/ Duty Magistrate and subject to him not being required in any other case.

11. However, nothing stated above shall be construed as a final expression of opinion on the merits of the case and the trial would proceed independently of the observations made in the present order which are only for the purpose of adjudicating the present bail petition.

12. It is made clear that in case, the petitioner indulges in any criminal activity in future and any act is done by him to threaten or influence the complainant or any of the witnesses, then it would be open to the State to move an application for cancellation of bail granted to the petitioner.

13. All the pending miscellaneous application(s), if any, stand disposed of in view of the abovesaid order.

20.11.2023

D.Bansal

(VIKAS BAHL)
JUDGE

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