

**243 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH****CRM-M No.219 of 2024 (O&M)****Date of decision : 11.01.2024**

Nikhil Kumar

..... Petitioner

versus

State of Punjab

..... Respondent

CORAM : HON'BLE MR.JUSTICE PANKAJ JAIN*******Present :- Mr. P.S.Sullar, Advocate
for the petitioner.

Mr. J.S.Arora, DAG, Punjab.

*********PANKAJ JAIN, J. (ORAL)**

1 This petition has been filed under Section 439 Cr.P.C. for grant of regular bail in case F.I.R. No.84 dated 09.06.2023 registered under Sections 307/386/452/34 IPC and Section 25 of Arms Act (Sections 379/411 IPC and Sections 54-59 of Arms Act added later on) at Police Station Balongi, District SAS Nagar.

2 Learned counsel for the petitioner relies upon orders dated 18.12.2023 passed in CRM-M-56134-2023 and dated 18.12.2023 passed in CRM-M-50988-2023 to submit that other co-accused already stand admitted to bail by this Court. While granting indulgence to one Gaurav in **CRM-M-50988-2023** this Court vide order dated 18.12.2023 observed as under :-

“3. As per the FIR it has been alleged as under :

“Stated that I am resident of above mentioned address and I am owner of J.M.D. Store, which is a gift shop, situated in Village Jhampur, District SAS Nagar. I have five workers working in this gift shop. I opened the shop at 10 o'clock in the morning and closed the same at 9.00 in the evening. On dated 08.06.2023 at around 8.45 PM when I was preparing to close my gift shop and

my workers are switching off the lights etc. and I was present on the counter, suddenly two clean shaven boys, who were aged around 23 to 25 years, entered my shop and one boy was holding knife in his hand and the other boy was having pistol in his hand. On entering the gift shop, the fellow holding the pistol in his hand, fired upon me with intention to kill me. He fired three bullets on me and I in order to save my life, started running helter skelter. Out bullets fired on me, out of the three one bullet hit in between on my left ankle and heel. I raised noise of Maar Taa Maar Taa. Then they both the assailants while saying that pick up the phone call, whatever amount we ask for, will have to pay, and both the unknown assailants left the shop while threatening me and ran away on the motorcycle which was being driven by their third accomplice. In the mean time, people gathered there My friend Raju, who is running kiriyana shop, arranged for vehicle and took me for treatment at Govt. Hospital, Sector 16, Chandigarh. From where the doctor sahib giving me first aid and referred me to PGI Chandigarh for further treatment and I am under treatment at PGI Chandigarh. The cause of enmity is that the above mentioned assailants had asked for money ransom, but I had not given them, due to which these assailants attacked me. I can identify them if brought in front of me. Kindly take legal action against all the three unidentified assailants. Statement got recorded, heard, found it correct. xx”

4. *The petitioner has been nominated on the basis of disclosure made by one Manveer Singh @ Maveer Rana who as per the prosecution stated as under :*

“On investigation during police remand in presence of the below mentioned witnesses, the accused Manveer Singh alias Manveer Rana has admitted that "I Alongwith Deepak alias Deepu, Dalbir had fired gun shot upon Rohit Gupta alias Sonu at Village Jhampur. Its recce was done by Nikhil, Rohit and Arjun on silver coloured Honda City car bearing No. CH-03L-1869. Later on we i.e. I, Dilbar and Deepak had done firing at Jhampur. At that time, we were carrying five pistols with us. After the crime, three pistols were taken away by Dilbar and two pistols were kept with Dikshant alias Dikshu son of Ram resident of Village Pyarewala, Police Station Raipur Rani, District Panchkula, Haryana and later on, three pistol was handed over the same at Distt. Moga by me, Dilbar and Dikshant alias Dikshu upon instance/ instruction of

Prince Chauhan and Kala Rana,. After that incident, I alongwith Dikshant alias Dikshu and Dilbar and Gaurav alias Ghabar son of Shiv Paswan resident of H.No.3827 Village Mauli Jagran Complex, Chandigarh had fired outside the Escape Club, Sector 5, Panchkula. This firing was also done upon instruction of one Kala Rana and Prince Chauhan. I can also get arrested and can also get recovered the two pistols which are with Dikshant alias Dikshu. I can get arrested Rohit Kumar and Nikhil who are working at dhaba situated outside PGI. His Individual disclosure statement was recorded under section 27 of E.V. Act. and signatures of the witnesses are being taken.”

5. It has been contended that as per the contents of the FIR it is only two boys one holding the knife and the other having pistol in his hand entered the shop and even if whole of the case of the prosecution is taken on its face value the petitioner is not one of those two. Petitioner is in custody for last more than 5 months. Challan already stands presented and thus there can't be any apprehension that the petitioner shall tamper with the evidence.

6. State Counsel is not in position to dispute the factual assertions made by counsel for the petitioner based on record.

7. I have heard counsel for the parties and have gone through records of the case.

8. Without commenting on the merits of the case, keeping in view the incarceration already suffered by the petitioner and the fact that the investigation already stands concluded and Challan stands presented, the present petition is allowed. The petitioner is ordered to be released on bail on his furnishing bail bonds/surety bonds to the satisfaction of the Trial Court/Duty Magistrate concerned.

9. Needless to say that anything observed hereinabove shall not be construed to be an expression of opinion on the merits of the case. ”

3 Learned State counsel on instructions from Investigating Officer does not dispute that the petitioner is similarly situated to the other co-accused.

4 I have heard learned counsel for the parties and have gone through the records of the case.

5 Without commenting on the merits of the case by granting parity with co-accused and considering the incarceration suffered by the petitioner, the present petition is allowed. The petitioner is ordered to be released on bail on his furnishing bail/surety bonds to the satisfaction of the Ld. Trial Court/Duty Magistrate, concerned.

6 Needless to say that anything observed herein shall not be construed to be an opinion on the merits of the case.

11.01.2024

Pooja sharma-I

(PANKAJ JAIN)
JUDGE

Whether speaking/reasoned	Yes
Whether Reportable :	No