

127 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-8122-2024
Date of decision: 15.02.2024

NIKHIL KATARIA

...Petitioner

V/s

STATE OF PUNJAB

...Respondent

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Ms. Riffi Birla, Advocate
for the petitioner.

Mr. Subhash Godara, Addl. AG Punjab.

HARPREET SINGH BRAR J. (ORAL)

1. Present petition has been filed under Section 482 of Cr.P.C. seeking quashing of FIR No. 211 dated 30.11.2021 registered under Section 25 of Arms Act 1959 at Police Station Sadar Faridkot District Faridkot and all subsequent proceedings arising therefrom.
2. Learned counsel for the petitioner *inter alia* contends that the petitioner was picked up on 28.11.2021 at about 7'O clock by the police officials along with his two friends on the pretext of questioning and all three persons were taken by the police from the house of the petitioner and one out of three persons were released and a false FIR was registered against the petitioner and the other co-accused on 30.11.2021 i.e. after two days of the arrest and the said fact regarding forcibly taking the petitioner, was captured in the CCTV camera installed at the house of the petitioner, which is annexed along with the petition in the form of pen drive. Learned counsel for the petitioner further submits that perusal of the CCTV footage clearly establish the innocence of the petitioner and it shows that the petitioner was taken by the police officials and thereafter the alleged recovery of two pistols of 32 bore and 06 cartridges were planted and she further submits that to make out an offence under the Arms Act, the conscious

possession has to be established and mere possession would not make the

petitioner liable for any offence under Section 25 of the Arms Act and in this regard the mother of the petitioner has moved an application on 13.06.2023 (Annexure P-8) for transfer of the investigation.

3. Per contra learned State counsel submits that two 32 bore pistols and 6 live cartridges were recovered from the conscious possession of the petitioner and the investigating agency has already concluded the investigation and now the case is pending trial. Moreover, the probable defence set up by the petitioner in the present case cannot be appreciated by this Court as it is a matter of evidence. The veracity of the CCTV footage cannot be tested specially in view of the fact that, for more than two years, the petitioner has kept mum and raised no grievance with regard to his false implication. Learned State counsel further submits that the petitioner can raise all these pleas before the learned trial Court and the present petition is wholly misconceived.

4. Having heard the learned counsel for the parties and after perusing the record, this Court finds no force in the arguments advanced by learned counsel for the petitioner. As such the present petition is devoid of any merit and the same is hereby dismissed.

5. Nothing observed hereinabove shall be construed as expression of opinion of this Court on merits of the case and the trial Court shall proceed without being prejudiced by observations of this Court.

(HARPREET SINGH BRAR)
JUDGE

15.02.2024

Ajay Goswami

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No