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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-11063-2024
Date of decision : 03.04.2024

DEEPU KUMAR ALIAS DEEPPetitioner

Versus

STATE OF PUNJABRespondent

CORAM: HON'BLE MR. JUSTICE PANKAJ JAIN

Present : Mr. Prashant Vashisth, Advocate
for the petitioner.

Mr. Mohit Kapoor, Sr. DAG, Punjab.

PANKAJ JAIN, J. (ORAL)

This petition has been filed under Section 439 Cr.P.C. for grant of regular bail to the petitioner in case FIR No.132 dated 07.09.2022, registered for the offences punishable under Sections 307/336/160 and 120-B of IPC, 1860 (later on Sections 379/411 of IPC, 1860 were added) r/w Sections 25/54/59 of Arms Act, 1959, at Police Station Division No.3, Ludhiana-Police Commissionerate.

2. Reliance is being placed upon order dated 15.11.2023 passed in CRM-M No.55963 of 2023 whereby co-accused Jatin Moga @ Jatin Monga @ Trendi has been granted bail observing as under :

“1 This petition has been filed under Section 439 Cr.P.C. for grant of regular bail in case FIR No.132 dated 07.09.2022, registered for the offences punishable under Sections 307, 336, 160 and 120-B of IPC, 1860 (Sections 379 and 411 of IPC, 1860 and

Sections 25, 54 and 59 of Arms Act, 1959 added later on), at Police Station Division No.3, Ludhiana.

2 As per contents of the FIR, it has been alleged as under :-

“Today I, alongwith S.I. Gurinder Singh No.1307/Ldh. S.I. Paramjit Singh No.2142/Ldh.Constable Gurpreet Singh No.3967/Ldh, Constable Satpal Singh No.3974/Ldh. were present in a private vehicle in regard to petrolling and checking of bad elements at M.C. Chowk. Then secret informer came to S.I. and informed me in private that today on dated 07.09.2022 in the night at about 01 A.M. near 'Neela Jhanda Gurudwara two groups out of which one group of Shubham Arora alias Shubham Mota and another group of Puneet Bains, Resident of Ghorha Colony, Ludhiana. Both the groups having approximately 10-10 persons and both the groups having illegal arms and other deadly weapons, who have been feuding with each other for a long time, and have fixed timed each other in the Shubham Motta group, Shubham Arora alias Shubham Motta, Rishabh Banipal alias Nanu, Vishu Kanth and Namit Alias Naveen Sharma who are in jail and according to the planning Raja Bajaj and Bharat Sharma and out of Puneet Bains Group, Puneet Bains and Akash Soni @ Nanna Don who are in Jail and according to the planning Vishal Gill, Jatin Moga alias Trendy, Deep, Deepanshu, Naveen Gill Jatin Alias Chhota Nana, Sateem Sahota resident of Amarpura and 5-6 unknown other unknown boys along with the two groups, boarded vehicles and various two groups, boarded vehicles and various two-wheelers armed with illegal ammunition and lethal weapons to kill each other attacked with intent and fired illegal weapons at each other, which created an atmosphere of terror in the area. The offense meets the definition of Section 307-336-160-120-B, Section 25-54-59 of the Arms Act. By typing with the help of his private laptop and printing out the print with the help of the printer and sent the same through constable Satpal Singh to police Station for registration of case. Case number be informed after

registering the case. Special reports be prepared. I S.I. alongwith companions went on the spot for investigation. Sd/- Kulwinder Singh ASI Police Station Division No.3 Ludhiana dated 07.09.2022.”

3 Learned counsel for the petitioner relies upon order dated 17.04.2023 passed in CRM-M-14908-2023, order dated 25.05.2023 passed in CRM-M-15953-2023, order dated 29.05.2023 passed in CRM-M-15611-2023, order dated 02.08.2023 passed in CRM-M-36507-2023 and order dated 18.10.2023 passed in CRM-M-51956-2023, whereby co-accused have been granted concession of regular bail and observations made in CRM-M No.51956 of 2023 are reproduced here under :-

1. Present petition has been filed under Section 439 Cr.P.C. for grant of regular bail to the petitioner in case bearing FIR No.132 dated 07.09.2022, registered for the offences punishable under Sections 307, 336, 160 and 120-B of IPC, 1860 (Sections 379 and 411 of IPC, 1860 and Sections 25, 54 and 59 of Arms Act, 1959 added later on), at Police Station Division No.3, Ludhiana.

*2. Counsel for the petitioner submits that vide order dated 02.08.2023, co-accused Sarabhot Singh @ Raja Bajaj has already been granted regular bail by this Court in **CRM-M-36507-2023** (Annexure P- 5), observing as under:-*

“Prayer is for grant of regular bail to the petitioner in FIR No.0132 dated 07.09.2022, registered for offences punishable under Sections 307, 336, 160 and 120-B of IPC (Section 25 of Arms Act and Sections 379 and 411 of IPC added later on), at Police Station Division No.3, Ludhiana.

2. The contents of FIR read as under:-

“Then secret informer came to S.I. And informed me in private that today on dated 07.09.2022 in the night at about 01 A.M near ‘Neela Jhanda Gurudwara’ two groups out of which one group of Shubham Arora alias Shubhan Mota and another group of Puneet Baine, Resident of

Ghorha Colony, Ludhiana. Both the groups having approximately 10-10 persons and both the groups having illegal arms and other deadly weapons, who have been feuding with each other for a long time, and have fixed timed each other in the Shubham Motta group, Shubham Arora alias Shubham Motta, Rishabh Banipal alias Nanu, Vishu Kanth and Namit alias Naveen Sharma who are in jail and according to the planning Raja Bajaj and Bharat Sharma and out of Puneet Bains Group, Puneet Baina and Akash Soni @ Nanna Don who are in Jail and according to the planning Vishal Gill, Jatin Moga alias Trendy, Deep, Deepanshu, Naveen Gill, Jatin alias Chhota Nanna, Sateem Sahota resident of Amarpura and 5-6 unknown other unknown boys along with the two groups, boarded vehicles and various two-wheelers armed with illegal ammunition and lethal weapons to kill each other attacked with intent and fired illegal weapons at each other, which created an atmosphere of terror in the area. The offense meets the definition of Section 307-336-160-120B, Section 25-54-59 of the Arms Act. By typing with the help of his private laptop and printing out the print with the help of the printer and sent the same through constable Satpal Singh to police station for registration of case. Case number be informed after registering the case. Special reports be prepared.”

3. Though as per the allegations levelled in FIR, there is no mention of the petitioner, but he has been nominated being member of one of the warring groups.

4. Counsel for the petitioner submits that the petitioner is behind bars since 10.09.2022. Investigation already stands concluded. It is a case wherein any person has suffered any injury, thus the question as to whether Section 307 IPC is made out,

would be a debatable issue. He further places reliance upon order passed by this Court whereby co-accused Shivam Mota @ Shubham Arora, Rishabh Benipal @ Nannu, Vishu Kainth, Sukhraj Singh @ Sukha, Namit @ Naveen Sharma stands admitted to bail (Annexures P-2 to P-5).

5. Counsel for the State is not in a position to dispute the aforesaid factual assertions made by counsel for the petitioner based on record. He further submits that the petitioner is a habitual offender and is involved in number of cases including those for offences punishable under NDPS Act.

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

7. Granting benefit of parity and keeping in view the incarceration already suffered by the petitioner, the present petition is allowed. Petitioner is ordered to be released on regular bail on her furnishing bail/surety bonds to the satisfaction of the Ld. Trial Court/Duty Magistrate, concerned.

8. Needless to say nothing recorded herein shall be construed to be an expression of an opinion on the merits of the case.”

3. Keeping in view the parity and the incarceration already suffered by the petitioner, the present petition is allowed. Petitioner is ordered to be released on regular bail on his furnishing bail/surety bonds to the satisfaction of the Ld. Trial Court/Duty Magistrate, concerned.

4. Needless to say nothing recorded herein shall be construed to be an expression of an opinion on the merits of the case.

4 Learned counsel for the petitioner submits that petitioner prays for parity with that of co-accused.

5 Learned State counsel on the other hand has produced custody certificate, as per which the petitioner has undergone custody of about 1 year, 1 month and 28 days but he submits that

the petitioner is a habitual offender and has 5 more cases and it is clearly established that he is member of one of the warring gangs.

6 Faced with this situation counsel for the petitioner relies upon *Prabhakar Tewari Vs. State of UP and Anr., 2020 (1) RCR (Criminal) 831* to submit that the involvement of the petitioner in several more cases cannot be a ground to deny bail. He further submits that even the co-accused who have been granted indulgence by this Court were having multiple cases against them.

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

8 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.

9 Needless to say anything recorded herein shall not be construed as an expression of opinion on the merits of the case.”

3. Counsel for the petitioner further submits that the petitioner is behind bars since 17.09.2022. Investigation already stands concluded and Challan stands presented. Thus, there can't be any apprehension that the petitioner shall tamper with the evidence.

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

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

6. 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,

granting parity viz-a-viz Jatin Moga @ Jatin Monga @ Trendi, 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.

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

April 03, 2024		(Pankaj Jain)
Dpr		Judge
Whether speaking/reasoned	:	Yes/No
Whether reportable	:	Yes/No