

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-12582-2024
DECIDED ON: 23.04.2024

ARSHDEEP SINGH

.....PETITIONER

VERSUS

STATE OF PUNJAB

.....RESPONDENT

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Mr. Gurpal Singh Sandhu, Advocate
for the petitioner.

Mr. Jasjit Singh Rattu, DAG, Punjab.

SANDEEP MOUDGIL, J (ORAL)

1. The jurisdiction of this Court has been invoked under Section 439 Cr.P.C. for grant of regular bail to the petitioner in FIR No.192, dated 24.11.2023 (Annexure P-1), under Sections 323, 379-B, 506 of IPC and Sections 25, 27 of Arms Act, registered at Police Station City Sri Muktsar Sahib, District Sri Muktsar Sahib.
2. In compliance of the previous order dated 15.03.2024, status report dated 22.04.2024 by way of an affidavit of Satnam Singh, PPS, Deputy Superintendent of Police, Sub Division Sri Muktsar Sahib has been filed on behalf of respondent-State of Punjab, which is taken on record. Copy thereof has been supplied to the learned counsel for the petitioner today in Court.
3. Learned counsel for the petitioner has vehemently argued relying upon para No.8 of the said affidavit that now offence under Section 379-B as well as Sections 25 and 27 of the Arms Act stand deleted and final

report has been presented to Court on 13.03.2024. He further submits that the case is pending at this stage of consideration for charge and is now listed on 01.05.2024.

4. On the other hand, learned State counsel has produced the custody certificate of the petitioner today in Court, which is taken on record and seeks dismissal of the instant petition referring to para 5 of the said status report, which reads as under:-

“5. That on 27-11-2023 complainant had produced CCTV footage of the occurrence containing in a pen drive to the I.O and suffered his supplementary statement and disclosed the identity of culprits as i) Arshdeep Singh alias Arsh-present petitioner and ii) Varinder Singh s/o Dharminder Singh r/o Chak Bir Sarkar. Both the culprits on the same night had committed another snatching at sloop known as 'Snip In Sloop' situated at Kotkapura Bypass, Muktsar and he checked the CCTV footage that incident in which identity of accused was established and complainant came to know that the present petitioner Arshdeep Singh was armed with a pistol which he had pointed on his head and caused injuries from the blunt side of his pistol whereas his companion Varinder Singh had committed theft of cash of Rs. 10000/-. Accordingly both the accused were nominated in present case vide DDR N. 31 dated: 27-11- 2023. I.O-ASI had watched the CCTV footage in the presence of complainant, established the complicity of both the nominated accused in crime.”

5. Be that as it may, this court having examined paras No.5 and 8 of the said status report filed today in Court, finds material contradiction to the fact that in the CCTV footage, the petitioner was allegedly seen and

identified carrying a pistol, which he had pointed towards the head of complainant and caused injuries from the blunt side of the pistol on the head. At the same time, para No.8 reveals that offences under Sections 25 and 27 of Arms Act stand deleted along with Section 379-B IPC despite the specific allegation of committing the theft of Rs.10,000/- in cash.

6. Both the paragraphs No.5 and 8 of the present status report are contradictory and does not inspire the confidence of this Court.

7. Apart from the above, according to the custody certificate, the petitioner is behind the bars for the last 4 months and 9 days and is involved in one more case and especially in the light of the fact that Section 379-B IPC and Sections 25 and 27 of Arms Act stand deleted at the time of filing of challan on 13.03.2024 despite having knowledge of the CCTV footage of 27.11.2023, as is evident from para No.5 of the said status report. Section 392 IPC has been added in the aforesaid challan wherein only two accused persons have been nominated as an accused and even that is also *prima facie* not made which requires the group of five accused persons.

8. In the light of above, the whole case of the prosecution suffers from material illegalities and the story seems to be highly doubtful for which the petitioner at this stage cannot be detained behind the bars for an indefinite period, which would tantamount to violation of principle of criminal jurisprudence i.e. "*bail is a rule and jail is an exception*", as has been held by Division Bench of this Court in "***Rajinder Singh versus State of Haryana***", 2022(2) RCR (Criminal) 85 apart from the fact that Article 21 of the Constitution of India also includes right of speedy trial and expeditious disposal of the same.

9. As far as the pendency of other cases and involvement of the petitioner in other cases is concerned, reliance can be placed upon the order of this Court rendered in CRM-M-25914-2022 titled as “***Baljinder Singh alias Rock vs. State of Punjab***” decided on 02.03.2023, wherein, while referring Article 21 of the Constitution of India, this Court has held that no doubt, at the time of granting bail, the criminal antecedents of the petitioner are to be looked into but at the same time it is equally true that the appreciation of evidence during the course of trial has to be looked into with reference to the evidence in that case alone and not with respect to the evidence in the other pending cases. In such eventuality, strict adherence to the rule of denial of bail on account of pendency of other cases/convictions in all probability would lend the petitioner in a situation of denial the concession of bail.

10. In the light of above, the petitioner is directed to be released on regular bail on his furnishing bail and surety bonds to the satisfaction of the trial Court/Duty Magistrate, concerned.

11. In the afore-said terms, the present petition is hereby allowed.

12. However, it is made clear that anything stated hereinabove shall not be construed as an expression of opinion on the merits of the case.

23.04.2024

Poonam Negi

(SANDEEP MOUDGIL)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No