

**IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH.**

CRM-M-17955-2024

Date of Decision:-19.04.2024

Nitesh Kumar.

.....Petitioner.

Vs.

State of Haryana.

.....Respondent.

CORAM:- HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present:- Mr. Namit Khurana, Advocate for the Petitioner.

Mr. Rajiv Goel, Deputy Advocate General, Haryana.

JASJIT SINGH BEDI, J.(ORAL)

The Prayer in this second petition under Section 439 Cr.PC is for the grant of regular bail in case FIR No.234 dated 27.06.2023 under Sections 34, 279, 307, 336 IPC, Section 25 of the Arms Act, 1959 and Section 3/181 of Motor Vehicle Act, 1988 registered at Police Station Bilaspur, District Yamuna Nagar.

2. The present FIR came to be registered at the instance of Manpreet Singh which reads as under:-

“ Statement of Manpreet Singh son of Malkit Singh resident of village Chauhi, police station Bilaspur Yamunanagar, aged about 18 years, mobile number 9518226656, I would like to state that I am resident of the above noted address. Today on 27.06.2023 at around 4:30 PM, my friends Harsh son of Narender, resident of Manakpur police station Chhachhroli and Alandeep Singh son of Himmat Singh, resident of Banghat police station Bilaspur in the car bearing registration No.HR-71F-7092 make Swift colour black of our friend Rishu Sindhu son of Gagandeep resident of

Manipur was going towards Bilaspur for some personal work. Rishu Sandhu was driving the car. I was sitting on the side seat and Alandeep and Harsh were sitting on back seats of car. A car bearing registration No.HR- 05AY-6606 make Alto colour white came from backside in village Malipupur Bangar, which was being driven by Shivank son of Subhash, resident of Ladi, Nitesh son of Sanjay resident of Chandakhedi was sitting on the side seat and Shubham Pandit son of Sohan resident of Marwa Kalan and Simarpreet son of Jagdish Singh resident of Tibbi Raiya were sitting on the rear seat of car. As soon as we reached near next breaker of village Malikpur Bangar then, Nitesh came out of the side window of his running car and he made three fires towards me with the aim to kill me, out of which, one shot hit the mesh of the front bumper of our car and the second fire hit to the bumper of our car. I, immediately given information about it at helpline No.112. Thereafter, the driver Shivank, while taking his car towards Bilaspur-Malikpur Bangar road and near the climb, Shivank, while driving his car fast, hit a cyclist near the turn and away towards Bilaspur. Rishu has also chased the car of Shivank and at some distance ahead, the car of Shivank hit to a tree standing on road side and turned in the fields and four boys riding in the car, ran away from there and hidden in a sugarcane field. The public gathered there and police also came there and the police had apprehended Nitesh, Shubham Pandit and Simarpreet. Earlier, Shubham Pandit and Simarpreet had quarreled to me about two months ago near Lal Bahadur Shastri College, Bilaspur and Khanuwala, due to which, Shubham Pandit and Simarpreet were having grudge against me. Today also Shubham Pandit son of Sohan resident of Marwa Kalan, Nitesh son of Sanjay resident of Chandkheri, Shivank son of Shubham resident of Ledi and Simarpreet son of Jagdish Singh resident of Tibbi Rayia had attacked to me by firing on me and they had hit a passersby. I came to know that the fire made by Nitesh is hit to a passerby namely Gandhi son of Bhikhar resident of Malipur Bangar. Legal action be taken against Shubham, Nitesh and Simarpreet. I have got my statement recorded heard, same is correct. Sd/- Manpreet Singh, attested by Sd/- Manoj Kumar, ASI, Police Station Bilaspur, dated 26.07.2023."

3. The learned counsel for the petitioner contends that the petitioner has been falsely implicated in the present case. 07 Pws namely PW-1 Manpreet Singh (complainant), PW-2 Rishi @ Rashpreet, PW-3 Gandhi Rawat (injured), PW-4 Amir Chand, PW-5 Allendeep, PW-6 Harsh, PW-7 Om Parkash did not identify the accused and have been declared hostile by the Trial Court. As the petitioner was in custody since 27.06.2023 but only 07 of the 30 prosecution witnesses had been examined so far, the trial of the present case was not likely to be concluded anytime soon and therefore, he was entitled to the concession of bail, moreso when he had clean antecedents and his co-accused namely Kanwar Pal @ Shiwank and Shubham Sharma had been granted the similar concession vide orders dated 06.03.2024 and 04.04.2024 Annexure P-3 & P-4 respectively.

4. The learned State counsel on the other hand contends that the petitioner was a part of the unlawful assembly which committed the murder of the deceased. Therefore, he was not entitled to the concession of bail. He however concedes that all the material witnesses have turned hostile, that the petitioner was in custody since 27.06.2023, that only 07 of the 30 PWs had been examined so far and that 02 co-accused had been granted bail.

5. I have heard the learned counsel for the parties.

6. Admittedly, all the material witnesses have turned hostile. Whether the remaining evidence is sufficient to affix guilt upon the petitioner and his co-accused shall be adjudicated upon during the course of the Trial. The petitioner is stated to be in custody since 27.06.2023 but only 07 out of the 30 prosecution witnesses had been examined so far. Therefore, the Trial of the present case is not likely to be concluded anytime soon. In this situation the further incarceration of the petitioner is not required.

7. Thus without commenting on the merits of the case, the present

petition is allowed and the petitioner-**Nitesh Kumar** son of Sh. Sanja Chand Kheri is ordered to be released on bail subject to his furnishing bail bonds and surety bonds to the satisfaction of learned CJM/Duty Magistrate, concerned.

8. The petitioner (or anyone on his behalf) shall prepare an FDR in the sum of Rs.1,00,000/- and deposit the same with the Trial Court. The same would be liable to be forfeited as per law in case of the absence of the petitioner from trial without sufficient cause.
9. The petition stands disposed of.

(JASJIT SINGH BEDI)
JUDGE

April 19, 2024
Vinay

<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether reportable</i>	<i>Yes/No</i>