

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

223

CRM-M-18246-2024
Date of decision : 21.05.2024

Gursahib Singh Petitioner

versus

State of Punjab Respondent

CORAM : HON'BLE MR. JUSTICE PANKAJ JAIN

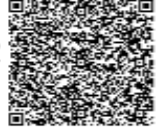
Present: Mr. Harpal Singh Sidhu, Advocate
for the petitioner.

Mr. Jaswinder Singh Arora, DAG, Punjab
with ASI Gurwinder Singh.

PANKAJ JAIN, J. (Oral)

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.16 dated 28.02.2024, registered for the offences punishable under Sections 25 of Arms Act, 1959 and Section 120-B of IPC, 1860 at Police Station State Special Operations Cell Amritsar, Intelligence Wing.
2. As per the case of the prosecution, the police party is stated to have recovered one country made pistol 30 bore alongwith 05 live cartridges and one Kanpur made revolver 32 bore alongwith 05 live cartridges as well as one rifle 315 bore alongwith 03 live cartridges from the car of the petitioner.
3. Counsel for the petitioner submits that out of the 03 arms recovered, 02 are licenced. It is not a case of injury having been caused. Petitioner is behind bars for more than 02 months and 18 days.

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Challan already stands presented. Most of the witnesses are official and there cannot be any apprehension that the petitioner shall tamper with the evidence.

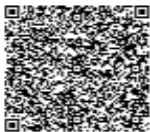
4. State counsel opposes the bail plea on the ground that the petitioner is facing 03 more FIRs.

5. Faced with the situation, counsel for the petitioner relies upon following observations made by Supreme Court in ***Prabhakar Tiwari vs. State of U.P.' reported as (2020) 1 RCR (Cri.) 831:-***

“6. In the case of ***Mahipal Vs. Rajesh Kumar @ Polia & Anr. (Criminal Appeal No.1843*** of 2019) decided on 5th December, 2019, a coordinate Bench of this Court has discussed the scope of jurisdiction of the appellate Court in setting aside an order of granting bail. The two key factors for interfering with such an order are non-application of mind on the part of the Court granting bail or the opinion of the Court in granting bail is not borne out from a prima facie view of the evidence on record. In the case of ***Maulana Mohammed Amir Rashadi vs. State of Uttar Pradesh and Another*** [(2012) 2 SCC 382], a two Judge Bench of this Court declined to interfere with an order of the High Court granting bail to an accused having considered the factual features of that case.

7. On considering the submissions of the learned counsel for the parties. Having regard to the circumstances of this case, in our opinion, there has been no wrong or improper exercise of discretion on the part of the High Court in granting bail to the accused. The factors outlined in the case of **[Mahipal](#)**

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(supra) for testing the legality of an order granting bail are absent in the order impugned. The materials available do not justify arriving at the conclusion that the order impugned suffers from non-application of mind or the reason for granting bail is not borne out from a prima-facie view of the evidence on record. The offence alleged no doubt is grave and serious and there are several criminal cases pending against the accused. These factors by themselves cannot be the basis for refusal of prayer for bail. The High Court has exercised its discretion in granting bail to the accused Vikram Singh upon considering relevant materials. No ex-facie error in the order has been shown by the appellant which would establish exercise of such discretion to be improper. We accordingly sustain the order of the High Court granting bail. This appeal is dismissed.”

6. In view of above, 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.

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

(PANKAJ JAIN)
JUDGE

21.05.2024
Dinesh

Whether speaking/reasoned :	Yes
Whether Reportable :	No