



**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CRM-M No.26377 of 2022
Date of decision: 23rd September, 2024

Mohammad Saqib Dar

... Petitioner

Versus

State of Punjab

... Respondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present: Mr. Nikhil Ghai & Mr. Joban S. Dhaliwal,
Advocates for the petitioner.

Mr. Amit Rana, Sr. Dy. Advocate General, Punjab
for the respondent/State.

Mr. D.S. Gandhi, Advocate for the complainant.

MANJARI NEHRU KAUL, J.

1. The petitioner is seeking the concession of bail under Section 439 Cr.P.C. in case FIR No.0343 dated 11.12.2021 under Sections 307, 302, 34, 108, 120-B, 111, 112, 201 of the IPC and sections 25 and 27 of the Arms Act, 1959 registered at Police Station Division B, Police Commissionerate Amritsar.

2. Learned counsel submits that the petitioner has been falsely implicated in the present case for allegedly being involved in the murder of Vishesh Gupta (hereinafter referred to as, 'the deceased'), son of the complainant. While drawing the attention of this Court to the allegations levelled in the FIR, which has been annexed as Annexure P-1, it is argued that the false implication of the petitioner is evident, as he was neither named in the FIR nor was any role attributed to him much less



by way of a whisper. It is further submitted that the petitioner was implicated solely on the basis of a disclosure statement allegedly suffered by the main accused Kirandeep Singh, which holds little evidentiary value and should be disregarded, particularly given that the name of the petitioner was not mentioned in the FIR.

3. Additionally, learned counsel has pointed out that the prime accused Kirandeep Singh, was challaned on 25.03.2022 and thereafter, a supplementary challan was filed against the petitioner on 24.05.2022. However, a perusal of the challan presented against the petitioner reveals that no substantial incriminating evidence had been collected to link the petitioner to the crime. Learned counsel has submitted that the prosecution has just referred to some financial transaction amounting to ₹1.00 lac, transferred in two installments of ₹50,000/- each into the account of the petitioner. It has been argued that this transaction was unrelated to the crime in question and was conducted merely for business purposes at the request of prime accused Kirandeep Singh. In fact, the petitioner transferred the money to an acquaintance of Kirandeep Singh, namely Shelly.

4. Furthermore, it is submitted by the learned counsel that there is no evidence to suggest that the petitioner was ever involved in any criminal conspiracy or he had any motive to conspire with the co-accused. The petitioner was not even present at the scene of the crime,



and even as per the case of the prosecution, he did not participate in the murder of the deceased.

5. A prayer has been made for enlarging the petitioner on bail as he has been in custody for 2 ½ years, having been arrested on 26.02.2022, and with 42 prosecution witnesses to be examined, it is unlikely that the trial will conclude in the near future.

6. Per contra, learned State counsel has vehemently opposed the prayer and submissions made by the counsel opposite, on instructions, by arguing that sufficient incriminating evidence has been gathered by the police, pointing to the petitioner's active participation in the murder in question. It has been contended that the petitioner transported the hired assassins to the scene of crime in his own vehicle and facilitated their escape afterwards by taking them not only from the scene of crime but also to his own place. Additionally, it is alleged that ₹1.90 lacs were deposited in the bank account of the petitioner by prime accused Kirandeep Singh and it was the petitioner who later on transferred the money to the hired assassins. Learned State counsel has submitted that in the aforementioned facts and circumstances, it is evident that the petitioner was an active participant and a conspirator in the crime in question.

7. Learned State counsel, on instructions, has also submitted that since the prosecution evidence is yet to be led, in case the petitioner is enlarged on bail, there is a strong possibility that he may abscond,



tamper with evidence, or intimidate witnesses, thus, misusing the concession of bail.

8. I have heard learned counsel for the parties and perused the relevant material on record.

9. It would be apposite here to reproduce the allegations levelled in the FIR in question, which read as under:

“Statement of Sandeep Gupta son of Sh. Ashok Gupta resident of House No.126 Shivala Colony, Amritsar age about 50 years Mobile Phone 99144-17773 stated that I am resident of above mentioned address and am doing the business of Iron with the name and style of Parkash Iron Store, at 293, East Mohan Nagar, Amritsar, along with me my father Ashok Gupta and my son Vishesh alias Vishu are also doing the Iron business. We daily in the morning open the shop at 10:00 AM and close the shop in the evening at 7:00 PM. Today dated 11.12.2021 at about 7:30 PM closed my shop. I and my father Ashok Kumar sat in our Innova car and my son Vishesh alias Vishu and his driver Prince son of Rattan Singh resident of Gali No. 01 near Lakhwinder Karyana Store Ghanupur Kale Chherhetta Amritsar after sat in Santro Car No. PB02-DR-7238 of my son were just started to go to home then three youths on motor cycle came from the side of Chamrang Road and immediately in reaching stopped their motor cycle just behind our cars, faces of all the three were tied with cloth, out of them two youths came forward who were seems to be aged 28 to 30 years, out of them one youth was holding Pistol in his hand, who fired a shot towards my son Vishesh alias Vishu with the



intention to kill him, fire after hitting the Wiper hit the windscreen, thereafter, both the youths came towards the widow of my son and fired 3/4 shots with the intention to kill him. That we raised alarm then all the three youths after riding on motor cycle fled from the spot. That my son said to me Papa I have received bullet in my stomach. That I sat in his car on rear seat and said to the driver to take car to EMC Hospital Amritsar That my son is under treatment where Doctors are treating him. The cause of grudge is that about 1 month earlier the engagement of my nephew was held with Mehak daughter of Sanjiv Aul resident of Pathankot. After some days of the engagement, Karandeep Singh son of Sukhjinder Singh resident of village Gour Khokhar Police Station Timbad District Gurdaspur who had came in Amritsar to Rakesh Arora resident of Aman Avenue. That Rakesh Arora had called us at his house. That I along with my relative Rajnikant Mahajan went to the house of Rakesh Arora, where aforesaid Karandeep Singh said to us that I was studying with girl Mehak, I have to marry her, you may break your relation, otherwise I have to kill boy or girl. Regarding which we had informed the father of the girl. In this regard the father of the girl had submitted an application at Pathankot. Due to this grudge, Karandeep Singh with the connivance of his other companions after firing direct shots on my son Vishesh alias Vishu with the intention to kill him, has injured him. In this regard I have got recorded my statement, I am aggrieved, action may be taken. Statement heard and is correct. Sd/- Sandeep Gupta”



10. Prima facie, there are serious allegations against the petitioner of being a conspirator to the murder of the deceased, which was carried out by hired assassins. In the facts and circumstances, as enumerated hereinabove, this Court does not deem it fit to extend the concession of bail to the petitioner, more so at this crucial stage of the trial. The petition is dismissed. However, it is made clear that anything observed hereinabove shall not be construed to be an expression of opinion on the merits of the case.

(MANJARI NEHRU KAUL)
JUDGE

September 23, 2024
rps

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No