



219 IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CRM-M-28277-2024
Date of decision: 24th July, 2024

Gulshan

...Petitioner(s)

Versus

State of Punjab

...Respondent(s)

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present: Mr. Rajesh Duhan, Advocate for the petitioner.

Mr. A.S. Samra, AAG, Punjab.

MANISHA BATRA, J (ORAL):-

The present petition has been filed under Section 439 of Cr.P.C.
seeking regular bail in the FIR mentioned below:-

FIR No.	Date	Police Station	Sections
25	14.03.2024	Sadar Rajpura, District Patiala	384, 473, 34 of IPC, 1860 and Sections 25(6) and 25(7) of Arms Act, 1959

2. Brief facts of the case relevant for the purpose of disposal of this petition are that the aforementioned FIR was registered on the allegations that on the evening of 14.03.2024, a secret information was received by ASI Tejinder Singh to the effect that one Gurvinder Singh who was wanted for commission of serious offences like murder etc. and was then residing at USA, had formed a gang and the petitioner as well as co-accused Shamsher Singh and Rohit who were members of his gang used to



commit offences of murder, demand of ransom and extending threats at the instance of above named Gurvinder Singh and were also engaged in supplying illegal weapons to other gangsters while being present near Sainiya under bridge with a vehicle Ford make black colour and waiting for their other accomplices. It was also informed that if raid is conducted, they could be apprehended with huge quantity of illicit weapons. Believing the secret information to be true, a raiding party was immediately formed which rushed towards the informed place, wherein they found three persons sitting in an Ford Ikon car bearing car registration No. HR-51S-8991. They were asked to come out of the vehicle. Upon conducting search, one pistol each and three live cartridges were recovered from co-accused Shamsheer Singh and Rohit Singh and one pistol and two live cartridges were recovered from the custody of the petitioner. The same were taken into custody. The petitioner and co-accused were formally arrested. Investigation has since been completed. The petitioner has moved an application for grant of bail before the Court of learned Additional Sessions Judge, Patiala which was dismissed vide order dated 08.05.2024.

3. It is argued by learned counsel for the petitioner that he has been falsely implicated in this case. He is in custody since 14.03.2024. No case qua commission of offences punishable under Sections 384 and 473 of IPC has been made out against him as these provisions are not attracted even from the allegations as levelled in the FIR. The trial is likely to take time. No useful purpose would be served by keeping him in custody anymore.

Therefore, it is argued that he deserves to be given benefit of bail.



4. Status report has been filed by respondent-State and it is submitted therein and learned State counsel has argued that there are serious allegations against the petitioner. There are chances of his absconding and intimidating the witnesses if extended benefit of bail. Therefore, it is argued that the petition does not deserve to be allowed.

5. I have heard learned counsel for the petitioner as well as learned State counsel at considerable length and have gone through the record carefully.

6. The petitioner along with co-accused alleged to be member of some gang operated by one Gurvinder Singh, presently residing in USA and is alleged to be found engaged in the business of supplying illicit weapons and committing offences of extortion, threat etc. No specific instance of committing offence of extortion, threats etc. has been quoted in the FIR. Nor there is any material on record to show so. Therefore, it is a debatable question as to whether the offence punishable under Section 383 of IPC had been committed by the petitioner which obviously has to be decided on the basis of evidence led during trial. It is also a debatable question whether the petitioner committed an offence punishable under Section 473 of IPC. He is in custody since 14.03.2023. No recovery remains to be effected from him. Trial is likely to take time. No useful purpose would be served by keeping him in custody anymore. It is well settled proposition of law that bail is the rule and jail is just an exception. In view of the discussion as made above, but without meaning to make any comment on the merits of the case, I am of the considered opinion that the petition deserves to be allowed. Hence the



petition is allowed and the petitioner is ordered to be released on bail subject to his furnishing personal/surety bonds to the satisfaction of the Chief Judicial Magistrate/ Duty Magistrate concerned.

7. Since the main petition has been allowed, pending application if any is rendered infructuous.

[MANISHA BATRA]
JUDGE

24th July, 2024
Parveen Sharma

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| 1. Whether speaking/ reasoned | : | Yes / No |
| 2. Whether reportable | : | Yes / No |