

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

CRM-M-28908-2023

Date of Decision:-30.01.2024

Pardeep Kumar.

.....Petitioner.

Vs.

State of Punjab.

.....Respondent.

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

Present:- Ms. Monita Mehta, Advocate for the Petitioner.

Mr. Harkanwar Jeet Singh, Assistant Advocate General, Punjab.

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.0076 dated 31.05.2022 under Sections 302, 120-B, 34 IPC and Sections 27/30, 54, 59 of Arms Act registered at Police Station Division No.1, Jalandhar.

2. The present FIR came to be registered at the instance of Dev Babbar @ Devi Dyan which reads as under:-

“ Statement of Shri Dev Babbar @ Devi Dyan s/o Ashok Kumar r/o street no. 2 near Nagra Fatak PS Div No. 1 Jalandhar aged about 33 years, telephone no. 8556843600 stated that I am resident of above said address and I do the work of making sofas. We are two brothers and sisters and all brothers and sisters are married and my youngest sister Sippi wife of Sunil Kumar r/o Shiv Nagar, Street no. 4 has been married since almost 4 years. From whose womb there is boy, Mohit aged about one and half years. After her marriage, her husband Sunil Kumar used to beat her sister

Simpi continuously and kicked her out of the house and kept asking for dowry and as Panchayat we used to send my sister to her in-laws house to settle her house. Which is my brother in-law Sunil Kumar s/o Vijay Kumar who is addicted to drinking alcohol and who works as a security guard in cooperative Bank Maksuda. Who also having a revolver is also have a licensed weapon. On 30.05.2022, my sister Simpi called my parents and told that my husband Sunil Kumar is fighting with me. On which my father Ashok Kumar told me. On which I and my father Ashok Kumar and my mother Krishna Devi went to my brother-in-law Sunil Kumar's house to explain to him, it was around 10'o clock at night when we reached the gate of Sunil Kumar' house, the gate of the house was open so that Sunil Kumar and his brother Pardeep Kumar @ Bobby were inside the house so my father Ashok Kumar and my mother Krishna Devi went inside the house where my sister Sippy and her husband Sunil Kumar were arguing. So Sunil Kumar was holding a 32 bore revolver in his hand and I was standing in the gate, when I was watching, Sunil Kumar shot my sister Sippy, father Ashok Kumar, mother Krishna Devi and Sunil Kumar shot continuously and killed all three them in front of me. My sister Sippy and Father Ashok Kumar and Krishna Devi fell on the floor inside the house due to bullet injuries and died on the spot. Sunil Kumar and his brother Pardeep Kumar Bobby and another brother whose name I don't know but can identify when they appear and don't know the name of Sunil Kumar mother who I can identify when they appear. All of them conspired to kill my sister Sippy and my father Ashok Kumar and mother Krishna Devi by shooting them with 32 bore license revolver. When I informed about this to my other relative, these two brother Sunil Kumar and Pardeep Kumar Bobby came out of the house and many people gathered together in the village and I was going to himself to inform about it, have written your statement, it is correct. Which I know that Sunil Kumar mother's name is Bimla Devi and his elder brother name is Deepak Kumar. That legal action should be taken against all these accused. Sd-(Hindi) Dev Babbar @ Devi Dyal 85568-43600".

3. The counsel for the petitioner contends that the petitioner has been falsely implicated in the present case by the complainant with the sole

motive to involve members of the family of the accused. Though the petitioner is named in the FIR, but as per the statement of the complainant he was only standing inside the house of his brother Sunil Kumar who fired the gunshots and is the main accused. There is no allegation that the petitioner was instigating his brother to kill the complainant's sister or parents. Even as per the prosecution case it was Sunil Kumar who used to raise a demand for dowry and beat his wife. Qua the petitioner only vague and general allegations have been levelled without any supporting evidence whatsoever. In fact on the day of the occurrence, it was the petitioner who had called the police on its helpline number multiple times. As the petitioner was a first time offender, in custody since 31.05.2022 but only 09 of the 41 prosecution witnesses had been examined so far. The Trial of the present case is not likely to be concluded anytime soon and therefore, the petitioner was entitled to the concession of bail.

5. The Counsel for the State on the other hand has filed short reply dated 30.01.2024 by way of affidavit of Mr. Daman Bir Singh, PPS, Assistant Commissioner of Police (North), Police Commissionerate, Jalandhar in court today, which is taken on record. While referring to the said status report, he contends that it is a triple murder. The petitioner was the brother of the main accused-Sunil Kumar. He was present in the house where the occurrence took place. Therefore, he was not entitled to the concession of bail. He however concedes that the as per the report of the FSL the weapon of offence bears the finger prints of Sunil Kumar, that the petitioner is the one who had called the police helpline on multiple occasions, that he is in custody since since 31.05.2022, that only 09 out of the 41 prosecution witnesses had been examined so far and that the petitioner was a first time offender.

6. I have heard the learned counsel for the parties.
7. The veracity of the prosecution case against the petitioner shall be adjudicated upon during the course of the Trial. Admittedly, the petitioner is in custody since 31.05.2022 and only 09 out of the 41 prosecution witnesses have 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.
8. Thus without commenting on the merits of the case, the present petition is allowed and the petitioner-**Pardeep Kumar** son of Sh. Vijay Kumar 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.
9. The petition stands disposed of.

(JASJIT SINGH BEDI)

JUDGE

January 30, 2024

Vinay

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