

In the High Court for the States of Punjab and Haryana
At Chandigarh

CRM-M-38227-2023 (O&M)
Date of Decision:-7.3.2024

Suraj Kumar @ Suraj Malhotra @ Bhukh ... Petitioner

Versus

State of Punjab ... Respondent

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present:- Mr. Hitesh Chopra, Advocate for the petitioner.

Mr. Vishavjeet Singh Virk, DAG, Punjab with
Mr. A.D.S. Sukhija, Addl.A.G., Punjab.

FIR No.	Dated	Police Station	Section/s
113	5.5.2016	Sultanwind, District Amritsar	302, 307, 148, 149, 120-B of Indian Penal Code and Sections 25, 27, 54, 59 of Arms Act

GURVINDER SINGH GILL, J. (Oral)

1. The petitioner seeks grant of regular bail in respect of the aforementioned FIR.
2. The FIR was registered at the instance of complainant-Vishal Kumar who has stated that on the day of occurrence he along with Baga @ Sunny, Rahul @ Hariya, Deepu, Vicky and Ajay were returning back after attending marriage. On the way, they were way laid Bobby Malhotra, Kaddu @ Gaurav Gicky,

Shiva, Pawan @ Tamba, Suraj @ Bhukh, Arun, who were armed with pistols and revolvers and out of whom Bobby raised 'Lalkara' and fired a shot hitting the head of the complainant's brother and thereafter the accused fired several shots hitting complainant's brother namely Hariya in stomach and which also hit Deepu and Bawa. It is the case of prosecution that Hariya succumbed to his injuries while Deepak @ Deepu and Baga @ Sunny also sustained injuries.

3. The petitioner had been granted bail by this Court vide order dated 29.11.2018 (Annexure P-3) and had been appearing before the trial Court but on account of his absence on 09.08.2022, his bail was cancelled. The petitioner thereafter, surrendered on 28.04.2023 before the trial Court and has been in custody since then.
4. Learned counsel submitted that the petitioner had been appearing regularly before the trial Court ever since grant of bail in the year 2018 for about 4 years and that his absence as on 09.08.2022 was the first instance of default and that too on account of the fact that his wife was in a family way and who actually delivered a baby in the month of September, 2022. It has further been submitted that, in any case, the petitioner after his surrender on 28.04.2023, has now been behind bars since the last more than 10 months and that the same in any case would serve as sufficient deterrent to the petitioner to be more careful in future.
5. Opposing the petition, learned State counsel submitted that since the petitioner had already remained as proclaimed offender and had even now, after grant of bail, chosen to remain absent before the trial Court, he does not deserve the concession of bail. Learned State counsel, however, informed

that as on date the petitioner has been behind bars since the last 2 years, 4 months and 13 days. It has also been informed that after surrender of the petitioner on 28.04.2023, he has now been in custody for the last more than 10 months. It has been informed that as on date 43 PWs out of the cited 75 PWs have been examined.

6. This Court has considered rival submissions addressed before this Court.
7. This Court is of the opinion that having regard to the custody of the petitioner particularly the custody after the petitioner himself chose to surrender before the trial Court on 28.04.2023 and bearing in mind the fact that conclusion of trial is likely to consume time inasmuch as only 43 PWs out of the cited 75 PWs have been examined, further detention of the petitioner will not serve any useful purpose. The instant petition, as such, is accepted and the petitioner is ordered to be released on regular bail on his furnishing bail bonds/surety bonds to the satisfaction of learned trial Court/Chief Judicial Magistrate/Duty Magistrate concerned.

7.3.2024

pankaj/ps

**(Gurvinder Singh Gill)
Judge**

Whether speaking /reasoned

Yes / No

Whether Reportable

Yes / No