

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

CRM-M-55678-2023

Date of Decision: 13.03.2024

Gurpreet Singh alias Gopi

..... Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present: Mr. Sahil Puri, Advocate, for the petitioner.

Mr. Navneet Singh, Sr. DAG, Punjab.

Rajesh Bhardwaj, J. (ORAL)

Prayer in the present third petition is for the grant of regular bail to the petitioner in a case FIR No.318 dated 18.11.2022, registered under Sections 379-B, 457, 34, 411 IPC (later on added Section 395 IPC) and Sections 25, 54, 59 of the Arms Act, at Police Station Sultanpur Lodhi, District Kapurthala.

Adumbrated facts of the case are that on the statement of complainant Sandeep Kumar, the present FIR was registered, wherein it was alleged that on 17.11.2022 at about 10:30 p.m., he was present in his wine shop at Kapurthala road and in the meantime, five unidentified persons armed with *datar* came to the shop for buying a beer bottle and started abusing the workers and bythreatening, they took away Rs.4,000/- from one worker named Summy. They gave *datar* blow on the head of one of the workers, namely, Rohit and snatched Rs.1,200/- from him. Thereafter, these unidentified persons ran away. Request was made to take legal action against the culprits. On the registration of the FIR, investigation commenced. One of the accused, namely, Saurabh Kumar @ Sunny was arrested on the spot. On his disclosure statement, rest of the co-accused including the petitioner were named in the FIR. The petitioner was arrested on 20.11.2022. He approached the Court of learned Additional Sessions

Judge, Kapurthala for grant of bail, however, the same was declined vide order dated 26.09.2023. Thereafter, the petitioner approached this Court twice for grant of bail, however, the petitions were allowed to be dismissed as withdrawn. Hence, the petitioner has approached this Court again by way of filing the present third petition for grant of bail.

Learned counsel for the petitioner has vehemently contended that as per statement of the complainant, it is evident that five unidentified persons entered in the wine shop of the petitioner. He submits that the petitioner was not even named in the FIR and he was arrested only on the basis of the disclosure statement made by co-accused Saurabh Kumar @ Sunny, which is not even an admissible evidence. It is submitted that not only similarly situated co-accused have been granted bail, but also co-accused, Saurabh Kumar @ Sunny, who was arrested on the spot has also been granted bail by this Court vide order dated 30.10.2023. It is submitted that the petitioner is behind bars since the date of his arrest i.e. 20.11.2022 and till date there is no material progress in the trial. He submits that though the petitioner is involved in other cases as well, however, he has been named in those cases on the basis of statement of co-accused. He submits that in the facts and circumstances of the present case, the petitioner deserves to be granted bail.

Per contra, learned State counsel has opposed the submissions made by learned counsel for the petitioner. He has submitted that though the petitioner has been named on the basis of the disclosure statement made by the co-accused, however, recovery of Rs.700/-, one air gun and one *datar* is effected from him. On instructions from ASI Harbhajan Singh, he submits that the petitioner is facing trial in six more cases of similar nature and thus,

no ground for the grant of bail is made out.

Heard.

After hearing learned counsel for the parties and perusing the record, it is evident that the petitioner is behind bars since the date of his arrest i.e. 20.11.2022. As submitted before this Court, co-accused have already been granted bail in this case. Custody certificate produced would show that the petitioner has completed an actual period of incarceration of 01 year 03 months 10 days as on 12.03.2024. Though the petitioner is facing trial in six more cases, however, he is on bail in some of the cases and in some cases, he was arrested on production warrants. Be that as it may, this Court finds that similarly situated co-accused have already been granted bail. This Court would refrain itself from commenting anything on the merits of the case. However, considering the prayer for grant of bail to the petitioner, this Court is of the view that learned counsel for the petitioner has been able to make out a case for grant of regular bail to the petitioner.

Considering that the trial would take sufficiently long time in its conclusion, the present petition is allowed and the petitioner is ordered to be released on bail to the satisfaction of the concerned trial Court/Duty Magistrate.

Nothing said herein shall be construed as an expression of opinion on the merits of the case.

It is being clarified that in case the petitioner does not furnish bail/surety bonds within a period of one week, his custody will not be counted in the present case.

13.03.2024
sharmila

Whether Speaking/Reasoned
Whether Reportable

(RAJESH BHARDWAJ)
JUDGE

: Yes/No
: Yes/Nos