

2024:PHHC:138865



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

CRM-M-52734-2024

DECIDED ON: 23.10.2024

GAGAN KUMAR @ GAURAV KUMAR @ GAGAN BAGHA @ GAGGI

PETITIONER

VERSUS

STATE OF PUNJAB

RESPONDENT

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL.

Present: Mr. B.S. Baath, Advocate and
Mr. Ritesh Aggarwal, Advocate
for the petitioner.

SANDEEP MOUDGIL, J (ORAL)

1. Relief Sought

The jurisdiction of this Court under Section 482 of BNSS, 2023 has been invoked seeking anticipatory bail to the petitioner in case FIR No. 92, dated 02.10.2024, under Sections 25(1)(b), 25(6), 25(7), 25(8), 29 of Arms Act, 1959 and Section 111 of BNS, 2023, registered at Police Lambara, District Jalandhar Rural.

2. Facts

The facts as narrated in the FIR reads as under:-

To, Head Officer, Police Station Lambra, District Jalandhar Rural, Jai Hind, Today I ASI alongwith Parvinder Singh number 524/Jalandhar Rural, Head Constable Jarnail Singh number 1527/Jalandhar Rural, Head Constable Neeraj Kumar number 1093/Jalandhar Rural,

Constable Dapinder Singh number 1754/Jalandhar Rural on govt. vehicle, Scorpio number PB-66-BF-7693, whose driver is ASI Lakhwinder Singh no. 582/Jalandhar Rural with laptop and printer were presented at village Pavara Pulli in concern for patrolling and checking of suspicion persons, where the secret informer (Desh Sewak) given the information to me that Sunil Kumar @ Jiuna son of Balvir Singh r/o village Mandala, P.S. Lohian, District Jalandhar - Rural who has formed a gang with Suraj Kumar @ Ladi son of Gurmit Ram r/o village Shekhwal, P.S. Shahkot, District Jalandhar, Gagan @ Gaggi @ Bagha son of Rajinder Kumar r/o village Bolina, P.S. Patara, District Jalandhar and Davinderpal @ Deepu son of Kulvir Singh r/o Musewal Arian, P.S. Shahkot, District Jalandhar. They used to bring illegal weapons (pistols) from MP on lower rates and sell them on higher rates without license and permit. The head of their gang is Sunil Kumar @ Jiuna son of Balvir Singh village Mandala, P.S. Lohian, District Jalandhar Rural who is standing at Adda village Nijjran with consignment of weapons (pistols) and waiting their companions. If now the raid is conducted on him, then from the abovesaid person illegal weapons and cartridge could be recovered in heavy quantity. This information is true and believable. Upon that I, ASI, alongwith companions reached at the spot, which disclosed by the secret informer (Desh Sewak), where one youngman was standing and he was carrying one small side kit bag around his neck. On seeing the police party he tried to escape from there. I, ASI with the help of companions caught him and asked about his name and address, he disclosed his name as Sunil Kumar @ Jiuna son of Balvir Singh, resident of village Mandala, P.S. Lohian, District Jalandhar Rural. Before conducting the search, I, ASI tried to join the public witness, but

everybody shown their compulsion and no one was ready for that. Upon that I, ASI has got conducted the search of above accused Sunil Kumar @ Jiuna, in the presence of the companions, then .32 bore pistol has recovered from the blue colour cloth which he has tied with his waist on his left side. After unloading, two bullets of .32 bore recovered from the magazine and thereafter, the search was conducted of abovesaid accused Sunil Kumar @ Jiuna of his side kit bag which he wore around his neck, then from the side kit bag three other .32 desi pistol were recovered. After unloading the three desi pistols turn by turn, from the magazine of three pistols 02/02 live cartridge of .32 bore were recovered. The recovered four desi pistols arranged in serial no. 1 to 4 and prepared the separate memo of four desi pistols and thereafter, separate parcel was prepared of four desi pistols of .32 bore alongwith magazines and after preparing the separate parcel of live cartridge .32 bore, I, ASI sealed the five parcels with my seal bearing letter no. BS and the separate sample seal was prepared on the cloth. The parcel of recovered 04 desi pistols of .32 bore, one parcel of 08 live cartridge .32 bore was sealed bearing letter BS alongwith kit bag colour brown and blue colour cloth tied with the waist and the sample seal was taken into the police possession through separate memo as piece of evidence. After using the seal I, ASI handed over to the ASI Parvinder Singh number 524/Jalandhar Rural. The above said accused Sunil Kumar @ Jiuna while keeping in possession alongwith his companions 04 desi pistols •32 bore and 08 live cartridge, .32 bore, without permit, without license has committed the offence under section 25(1) B (6) (7) (8), 29-54-59 Arms Act and 111 BNS. Upon that ruqa has written for registration of FIR and sent to the police station Lambra through Constable Dapinder

Singh number 1754/ Jalndhar Rural. After registration of FIR number be informed. Special report be prepared and be sent to the officers. I, ASI alongwith companions is present at the spot for investigation.

3. Contentions

On behalf of the petitioner:

Learned counsel for the petitioner would contend that neither recovery of any weapon nor cartridge has been effected from the petitioner. He further contends that no overt act except that the petitioner was a member of unlawful assembly, has been attributed to him.

Notice of motion.

On behalf of respondent-State

Mr. Jaspal Singh Guru, AAG, Punjab having been served with an advance copy, accepts the notice on behalf of the respondent-State. He could not make out a case for the custodial interrogation of the petitioner, at this stage, as far as the role attributed to the petitioner is concerned.

4. Analysis

Be that as it may, except bald allegations that the petitioner is a member of unlawful assembly, no over act has been attributed to him. The custodial interrogation of the petitioner is not required, as the recovery of alleged weapon used in commissioning of offence has already been effected from the co-accused namely Sunil Kumar @ Jiuna, therefore, nothing is to be recovered from the petitioner.

5. Conclusion:

Hence, in view of the admitted set of circumstances before this Court, the petitioner is hereby directed to be released on anticipatory bail subject to him joining the investigation and reporting to the Investigating

Officer concerned within a period of 10 days from today, upon furnishing of personal/surety bonds to the satisfaction of Arresting/Investigating Officer.

The petitioner shall also abide by the terms and conditions as envisaged under Section 482(2) of BNSS of which are reproduced below :-

“When the High Court or the Court of Session makes a direction under sub-section (1), it may include such conditions in such directions in the light of the facts of the particular case, as it may think fit, including-
(i) a condition that the person shall make himself available for interrogation by a police officer as and when required;
(ii) a condition that the person shall not, directly or indirectly, make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or to any police officer;
(iii) a condition that the person shall not leave India without the previous permission of the Court;
(iv) such other condition as may be imposed under sub-section (3) of section 480, as if the bail were granted under that section.”

However, it is made clear that in case the petitioner does not comply with the aforesaid direction of joining the investigation within 10 days, the order passed by this Court today shall automatically, stand cancelled.

In the afore-said terms, the present petition stands allowed.

(SANDEEP MOUDGIL)
JUDGE

23.10.2024
sham

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