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

Sr. No.235

**CRM-M-53795-2024(O&M)
Date of decision : 05.11.2024**

Paras Deol

..... Petitioner

VERSUS

State of Punjab

..... Respondent

CORAM: HON'BLE MS. JUSTICE KIRTI SINGH

Present: Mr. V.K. Kaushal, Advocate, for the petitioner.

Mr. R.S. Thind, DAG, Punjab.

KIRTI SINGH, J. (Oral)

The jurisdiction of this Court under Section 483 BNSS, 2023 has been invoked for grant of regular bail to the petitioner in case FIR No.67 dated 08.07.2024, under Sections 125, 324 & 351 of BNS, 2023 and Sections 25 & 27 of the Arms Act, 1959 (Sections 54 & 59 of the Arms Act added later on), registered at Police Station City Batala, District Gurdaspur.

2. The relevant part of the FIR is reproduced below:-

“Statement of Manjinder Singh son of Gurbakhash Singh resident of Dhall Motors, Jalandhar road Batala Mobile No.9779626255, I would like to state that I am running Immigration Centre under the name of Global village at bus stand Batala. Today at around 2.00 PM, I went to my house from office and at around 4.00 PM, I received phone call from my office that some unknown boys have made firing on the glass gate of the office and ran way. I want to inform you that on 01.07.2023, I received threat call from mobile No.6232728998 which was made Ramesh Kumar son of Vijay Kumar resident of Khanda Khola under the greed of money on the asking of Manjit Singh @ Vicky who was employee of my

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office and now he has been removed from the job of my office. He has admitted that Ramesh Kumar has made to sit me in his hotel first bite and given greed of money and weapon to kill me. About 4 months ago, the firing was made on me at restaurant Birio Master Jalandhar Bypass Batala to threat me under the demand of extortion money. At that time, the amount of Rs.50.00 lacs was demanded as extortion money. This firing is made by unknown persons to threat me. Legal action be taken against these unknown persons.”

3. Learned counsel for the petitioner *inter alia* submits that the petitioner has been falsely implicated in this case. He has been nominated as an accused on the basis of disclosure statement of the co-accused. The petitioner has not been named in the FIR. The petitioner has undergone an actual custody of 03 months and 13 days and there is no other criminal case registered against him.

4. *Per contra*, learned State counsel has vehemently opposed the submissions made by the learned counsel for the petitioner. He states that the petitioner was actively involved in the commission of the offence. He has filed custody certificate in Court and as per custody certificate, the petitioner has undergone an actual custody of 03 months and 13 days, however, he submits that there is no other criminal case registered against him. He on instructions from the concerned investigating officer submits that challan has been presented on 16.09.2024 and charges have been framed on 27.09.2024 and out of a total of 16 prosecution witnesses, 03 witnesses have been given up and 01 witness has been examined. He however, contends that in view of the serious allegations against the petitioner, he is not entitled to the concession of regular bail.

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5. Heard the rival submissions made by learned counsel for the parties.
6. Admittedly, the petitioner has undergone custody period of 03 months and 13 days. The investigation is complete and out of a total of 16 prosecution witnesses, 03 witnesses have been given up and 01 witness has been examined till date. The petitioner has clean antecedents. It would be unjust to keep him behind bars looking at the condition of the jails which are not conducive for rehabilitation process and detaining the accused persons in jails would also tantamount to violation of Article 21 of the Constitution of India including the right to speedy trial, and is against the principle “Bail is a rule, jail is an exception” as elucidated in the judgment of Apex Court in **“Dataram Singh vs. State of Uttar Pradesh and another, (2018) 3 SCC 22”**.
7. Deprivation of personal liberty without ensuring speedy trial is not consistent with Article 21. While deprivation of personal liberty for some period may not be avoidable, period of deprivation pending trial/appeal cannot be unduly long. The Apex Court in **“Abdul Rehman Antulay and others v. R.S. Nayak and another”, 1992(2) RCR (Criminal) 634** observed that Right to Speedy Trial flowing from Article 21 encompasses all the stages, namely the stage of investigation, inquiry, trial, appeal, revision and retrial.
8. The veracity of the allegations leveled against the petitioner shall be established during the course of the trial. Further, considering the aspect that the trial will take a considerable time to conclude, this Court is of

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the considered view that further incarceration of the petitioner will not serve any purpose.

9. Without commenting anything on the merits of the case, lest it may prejudice the trial, the present petition is allowed and the petitioner is ordered to be released on regular bail on his furnishing adequate bail/surety bonds to the satisfaction of the concerned learned trial Court/Duty Magistrate. The petitioner shall also abide by the following conditions:-

- (I) The petitioner will not tamper with the evidence during the trial.
- (II) The petitioner will not pressurize/intimidate the prosecution witness(s).
- (III) The petitioner will appear before the trial Court on the date fixed, unless personal presence is exempted.
- (IV) The petitioner shall not commit an offence similar to the offence of which he is accused of, or for commission of which he is suspected.
- (V) The petitioner 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 or tamper with the evidence.

10. In case of breach of any of the above conditions, the prosecution shall be at liberty to move an application for cancellation of bail before this Court.

11. However, nothing stated above shall be construed as a final expression of opinion on the merits of the case and the trial Court would

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proceed independently of the observations made in the present case which are only for the purpose of adjudicating the present bail petition.

Pending miscellaneous application(s), if any, also stands disposed of.

(KIRTI SINGH)
JUDGE

05.11.2024
Ramandeep Singh

Whether speaking / reasoned
Whether Reportable

Yes/No
Yes/No