



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

214

CRM-M-58689-2023

Date of decision: August 6th, 2024

Aman Mishra

.....Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present: Mr. Ankush Verma and Mr. Sandeep Verma, Advocates
for the petitioner.

Mr. Amit Rana, Senior Deputy Advocate General, Punjab.

MANJARI NEHRU KAUL, J. (ORAL)

Petitioner is seeking the concession of bail under Section 439 of the Code of Criminal Procedure, 1973 in case FIR No.105 dated 12.06.2023 under Sections 394, 397, 459, 379-B (Section 396 added later on) of the IPC and Section 25 of the Arms Act registered at Police Station City, South Moga.

2. Learned counsel for the petitioner submits that as per the case of the prosecution itself, petitioner had not accompanied the co-accused to the place of occurrence, from where gold ornaments were allegedly looted at gunpoint; the petitioner came to be nominated as an accused on the basis of a disclosure statement allegedly suffered by co-accused Varun. Learned counsel submits that the disclosure statement on the basis of which he has been arraigned as an accused does not have much evidentiary value and it should be appreciated in the light of the petitioner having no criminal antecedents. It has also been submitted that even as per the disclosure statement, the only role

attributed to the petitioner was of having received the loot along with the weapon of offence. Learned counsel has thus, prayed that in the aforementioned facts and circumstances, since the petitioner has now been in custody for more than a year having been arrested on 17.06.2023 and only one out of the 21 witnesses cited by the prosecution stands examined, his further incarceration would serve no useful purpose.

3. *Per contra*, learned State counsel while opposing the prayer and submissions made by the counsel opposite, on instructions from ASI Balwinder Singh, has not been able to controvert the factual aspects of the role attributed to the petitioner in the crime in question. It has also not been disputed by the learned State counsel, on instructions, that the petitioner is not involved in any other criminal case much less a case of identical nature. Still further, learned counsel for the State has also not been able to dispute the stage of the trial. However, it has been submitted that the prime accused in the instant case i.e. Varun was none other than the brother-in-law of the petitioner.

4. I have heard learned counsel for the parties and perused the material placed on record.

5. Before proceeding further, it would be apposite to reproduce the FIR in question, which is as under:-

“Statement of: Beant Kaur Mahi dio Malkeet Singh s/o Avtar Singh r/o Patti Gill Chudchak PS Ajitwal Hall Ahata Badan Singh Galil No. 01 Punjab District Moga aged about 23 years M:-7340786050, Stated that I am resident of above address. I have been working at Asia Jeweller owned by Parminder Singh @ Vicky for almost 6 months which is located in Ramganj Mandi. Today dated 12.06.2023 at around 01:50 PM I was present in the show room and my owner Parminder Singh had gone to his house to have meal. In the meanwhile,

the three person came outside the shop. I informed to my owner by mobile phone that there were three persons outside the shop who seemed suspicious to me. So I was waiting for my owner. Then Parminder Singh came to the shop and stood near the counter and the three persons standing outside entered the shop. My owner started showing the gold goods to the persons. At this time, two other persons entered the shop. First, one of the three persons took out a revolver and asked us to take out all the gold goods. When my owner objected to this, the person holding revolver fired two shots which hit on my owner's waist and the second shot hit the drawer and my owner fell down. When I started raising noise, one of them caught me and the other person ran away with the gold jewellery, gold chain, bracelet, earrings lying on the counter. In the meanwhile boy working at the shop came and arranged a ride and took him to the hospital. I can recognize criminals when they appear in front. The statement wrote and read to you. Appropriate action should be taken”

6. In the facts and circumstances as enumerated hereinabove, there is no likelihood of the trial concluding in the near future, coupled with the fact that the petitioner is not involved in any other criminal case. Hence, the instant petition is allowed. The petitioner be admitted to bail to the satisfaction of the trial Court/Duty Magistrate concerned. However, it is made clear that anything observed hereinabove shall not be construed to be an expression of opinion on the merits of the case.

7. Needless to say, in case the petitioner misuses the concession of bail granted to him, the State would be at liberty to seek cancellation of the same.

August 6th, 2024
Puneet

(MANJARI NEHRU KAUL)
JUDGE

Whether speaking/reasoned : Yes
Whether reportable : No