

224 IN THE HIGH COURT OF PUNJAB AND HARYANA  
AT CHANDIGARH

CRM-M-62863-2023  
Date of decision : 04.01.2024

SANJAY @ KHAN ....Petitioner

Versus

STATE OF HARYANA ....Respondent

**CORAM: HON'BLE MR. JUSTICE PANKAJ JAIN**

Present : Mr. Digvijay Singh, Advocate  
for the petitioner.

Mr. A.K. Sehrawat, DAG, Haryana.

**PANKAJ JAIN, J. (ORAL)**

This petition has been filed under Section 439 Cr.P.C. for grant of regular bail to the petitioner in case F.I.R. No.1066 dated 28.09.2023 registered for the offences punishable under Sections 25(6) of Arms Act, 1959 and 120-B of IPC, 1860 at Police Station Hisar Sadar, District Hisar, Haryana.

2. As per the allegations levelled in the FIR it has been alleged as under :

“Today, myself ASI with EHC Ishwar Singh 1431, EHC Shamsher Singh 03, Constable Sohan Singh 24 with Government vehicle No. HR20GV8151 Driver Constable Anil Kumar 85 with personal laptop and printer in concern of patrolling and enquiry of crime was present at village Satroad Kalan near Railway Crossing. That a special informer met me and informed that Sanjay alias Khan resident of Ladwa in order to take revenge of

murder of his friend Gangster Sandeep Sethi resident of Mangali, has brought a large quantity of illegal ammunition, who will come today in a white TATA Tiago car and give some ammunition to his friend Dharambir resident Byana Kheda. If raid be conducted at house of Sanjay alias Khan immediately, he can be nabbed along with his weapons. Since the information being trustworthy, so I apprised fellow employees about the information and I departed for village Ladwa with my fellow employees in Government vehicle and reached Canal Bridge and a white coloured vehicle was seen coming from front side. Myself ASI alighted down from the Government vehicle and signalled with my hand to stop the vehicle, the driver reduced the speed of the vehicle and when he came near myself ASI, he immediately tried to drive the vehicle away, then the driver of the Government vehicle promptly intercepted Government vehicle in front of white coloured Tiago vehicle and with the help of fellow employees they were nabbed and made the driver and the young man sitting on the conductor seat to alight down from the vehicle asked their names and addresses, then the driver disclosed his name Sudhir as son of Naresh resident of Balrakra District Dadri and the young man sitting on the conductor seat disclosed his name as Sanjay alias Khan son of Jaibir resident of Ladwa. Personal search of suspect Sanjay was conducted as per rules, then from the left sash of his blue coloured Jean which was worn by Sanjay a pistol of 30 bore was recovered, upon checking it was found as unload, in the pistol magazine was inserted and measured the Pistol then length of Iron Barrel was found as 11 CM, length of slide iron as 17.7 CM, length of the Iron body as 15.7 CM and length of butt was found as 11 CM, that on the both sides of the Pistol brown coloured plastic strip is studded with 2/2 Iron screw on both sides of the butt. Upon the recovered Pistol, there is Hammer, Trigger Guard on the lower side and on the left side of the Pistol on the side there is Barrel catch and slide whereupon STAR.MODEL.MADE.IN.USA has been engraved and upon the Barrel ONLY FOR ARMY has been

engraved. Which was put in plastic box parcel of the same was prepared and was sealed with seal SK/1. Search of suspect Sudhir was conducted as per Rules then from right sash of his black coloured Jeans one Pistol 30 bore was recovered upon checking it was found as unload, in the pistol magazine was inserted and measured the Pistol then length of Iron Barrel was found as 11 CM, length of slide iron as 17.7 CM, length of the Iron body as 16 CM and length of butt was found as 10.6 CM, that on the both sides of the Pistol brown coloured plastic strip is studded with 2/2 Iron screw on both sides of the butt. Upon the recovered Pistol, there is Hammer, Trigger Guard on the lower side and on the left side of the Pistol on the side there is Barrel catch and slide whereupon STAR.MODEL.MADE.IN.USA has been engraved and upon the Barrel ONLY FOR ARMY has been engraved. Which was put in plastic box parcel of the same was prepared and was sealed with seal SK/1 and search of vehicle Tiago was conducted then from the boot space of the vehicle at the place of Stepney 2 pistols 30 bore and one pistol 32 bore and Magazines 30 bore were recovered. 30 bore pistol recovered from the boot space of the vehicle was marked as A, upon checking it was found unload, in the pistol magazine was inserted and measured the Pistol then length of Iron Barrel was found as 11 CM, length of slide iron as 17.7 CM, length of the Iron body as 16.3 CM and length of butt was found as 10.7 CM, that on the both sides of the Pistol brown coloured plastic strip is studded with 2/2 Iron screw on both sides of the butt. Upon the recovered Pistol, there is Hammer, Trigger Guard on the lower side and on the left side of the Pistol on the side there is Barrel catch and slide whereupon STAR.MODEL.MADE.IN.USA has been engraved and upon the Barrel ONLY FOR ARML 30 has been engraved. Which was put in plastic box parcel of the same was prepared and was sealed with seal SK/1. Second 30 bore pistol recovered from the boot space of the vehicle was marked as B, upon checking it was found unload, in the pistol magazine was inserted and measured the Pistol then length of Iron Barrel

was found as 12.2 CM, length of slide iron as 20.8 CM, length of the Iron body as 16 CM and length of butt was found as 11 CM, that on the both sides of the Pistol plastic strip is studded with 2/2 Iron screw on both sides of the butt. Upon the recovered Pistol, there is Hammer, Trigger Guard on the lower side and on the left side of the Pistol on the side there is Barrel catch and slide. Which was put in plastic box parcel of the same was prepared and was sealed with seal SK/1. Third 32 bore pistol recovered from the boot space of the vehicle was marked as C, upon checking it was found unload, in the pistol magazine was inserted and measured the Pistol then length of Iron Barrel was found as 10 CM, length of slide iron as 15.5 CM, length of the Iron body as 13.5 CM and length of butt was found as 8.7 CM, that on the both sides of the Pistol brown coloured plastic strip is studded with 2/2 Iron screw on both sides of the butt. Upon the recovered Pistol, there is Hammer, Trigger Guard on the lower side and on the left side of the Pistol on the side there is Barrel catch and slide. Which was put in plastic box parcel of the same was prepared and was sealed with seal SK/1. A Magazine 30 bore recovered from the boot space of the Car was marked as D, sketch of the same was prepared and it was measured then length of the Magazine was found as 26.5 CM, Width 3.9 CM. Second Magazine 30 bore was marked as E, sketch of the same was prepared and it was measured then length of the Magazine was found as 12 CM, Width 3.5 CM. Third Magazine 30 bore was marked as F, sketch of the same was prepared and it was measured then length of the Magazine was found as 12 CM, Width 3.5 CM. All three Magazines were put in plastic Box and was sealed with seal SK/1. Seal after use was handed over to EHC Ishwar Singh 1431/Hisar. Suspects Sanjay and Sudhir. Suspects Sanjay and Sudhir appended their respective signatures upon the sketches of recovered pistols their from possession and also appended their respective signatures upon the sketches of 2 pistols 30 bore and one Pistol 32 bore and 3 Magazines 30 bore recovered from the boot space of the vehicle TATA Tiago and

upon the sketches witnesses also appended their respective signatures. Parcels of Pistol, Magazines and Vehicle Number HR19Q- 4939 were taken into police custody as evidence vide memo. Upon the memo of recovery accused and witnesses appended their respective signatures. The suspects upon their casual enquiry told that after taking place death of our friend Sandeep Sethi resident of Mangali, together with our friend Dharambir resident of Beyana Kheda we have made a plan to commit murder of the Gangsters Deputy and Anup Dawa residents of Sishwal and Anil alias Chhotia resident of Mangali who committed murder of our friend Sandeep Sethi. Arrangement of weapons was to be made by Sanjay alias Khan and arrangement of Shooters was to be made by Sudhir Sharma and Dharambir Beyana Kheda. That as per plan both of us in the month of July 2023 in vehicle TATA Tiago both of us had gone to Bhiwani and from Bus Stand Bhiwani had purchased one illegal weapon 32 bore and 4 illegal weapons 30 bore and 3 Magazine 30 bore (Against Rs. 4 Lac 80 Thousand) from Sardar Lovely alias Lucky resident of Indore (Madhya Pradesh). Since suspects Sanjay and Sudhir Organized Crime Syndicate (Sandeep Sethi Gang) by keeping in their respective possession Pistol 30 bore and in the boot space of vehicle 2 Pistol 30 bore and one Pistol 32 bore and 3 Magazine 30 bore have committed an offence under section 120B IPC 25 (6)/54/59 of A. Act, therefore, statement was written on the Laptop for registration of case is being sent by hand through EHC Shamsheer Singh 03/Hisar to Police Station, After registration of the case number of the case may be informed. For further investigation of the case other Investigation officer may be sent at the spot. Myself ASI along with fellow employees along with accused persons along with case property am busy in investigation at the spot. Today At Canal Bridge in the area of Satroad Kalan. Sd/- ASI SURENDER 1213 HSR ASI Surender Singh 1213/Hisar C.I.A. Staff Hisar dated 28.09.2023. AT 4.20 PM. MOB No. 8168327529. Police Proceedings:- Upon arrival of present

statement in Police Station to MHC Police Station, above mentioned case was registered under above mentioned sections, computerized copies of the FIR were prepared, copy of police along with original statement for further investigation is being sent through EHC Shamsheer Singh 03/Hisar to responsible ASI at the spot. MC CIA told that for further investigation of the case ASI Jitender 940 Jitender has been sent to place of incidence. And special report of the case is prepared and is being sent for the kind perusal of senior officers and Duty Magistrate through EMAIL ID. Computerized copies of the FIR are prepared and shall be sent by post for kind perusal of senior officers. SHO has been informed over telephone. xxxx”

3. Counsel for the petitioner while referring to the allegations submits that even if the same are taken on their face value at the most one pistol can be attributed to the present petitioner and not the other three which were alleged to have been recovered from the boot of the vehicle. He further submits that in view of explanation appended to Section 25(6) of the Arms Act which defines “organized crime”, “organized crime syndicate” read with the definition of continuing unlawful activity, it is highly debatable as to whether the offence can be said to be made against the petitioner. Its a case of recovery of arm and not of 'organized crime syndicate'. The petitioner is behind bars since 28<sup>th</sup> of September, 2023. Investigation already stands concluded. Challan stands presented. Most of the witnesses are official witnesses and thus there can't be any apprehension that the petitioner shall tamper with the evidence.

4. State Counsel is not in posititon to dispute the factual

assertions made by counsel for the petitioner borne out from the record.

5. I have heard counsel for the parties and have gone through records of the case.

6. In view of above, without commenting on the merits of the case, keeping in view the incarceration already suffered by the petitioner and the fact that the investigation already stands concluded and Challan stands presented, the present petition is allowed. The petitioner is ordered to be released on bail on his furnishing bail bonds/surety bonds to the satisfaction of the Trial Court/Duty Magistrate concerned.

7. Needless to say that anything observed hereinabove shall not be construed to be an expression of opinion on the merits of the case.

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|---------------------------|---|----------------------|
| <b>January 04, 2024</b>   |   | <b>(Pankaj Jain)</b> |
| <b>Dpr</b>                |   | <b>Judge</b>         |
| Whether speaking/reasoned | : | Yes/No               |
| Whether reportable        | : | Yes/No               |