

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

CRM-M-64138-2023

Date of decision: 04.01.2024

MANJOT SINGH ALIAS MONU ALIAS MANJYOT SINGH

...PETITIONER

V/S

STATE OF PUNJAB

...RESPONDENT

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Narinder Singh Dadwal, Advocate for the petitioner.

Mr. Sandeep Kumar, DAG, Punjab.

HARPREET SINGH BRAR J. (ORAL)

Present petition has been filed under Section 439 of Code of Criminal Procedure for grant of regular bail to the petitioner in case FIR No.0163 dated 08.10.2023 registered under Sections 307, 506, 148, 149 of Indian Penal Code and Sections 25, 27 of Arms Act, 1959 at Police Station Model Town, Ludhiana.

2. The brief facts of the case as discernible from the record are that the FIR was lodged on the statement of Mudit Sood, who made the following statement:-

"Today I along with Karan Singh son of Sukhwinder Singh r/o H.No.48-A Model Town, Ludhiana was sitting at the house of Garry Bhardwaj son of Sanjeev Bhardwaj r/o 8-B Sarabha Nagar Ludhiana. When Karan Singh started from his house on Activa to drop of Garry Bhardwaj and I stated on my Activa to go to my house, Abhijit Singh Mand and Kundal Sachdeva met us on the way and we stopped in the vacant ground near Puri Hospital and started having a talk. At about 1.00 a.m. from the gate of ground towards the Dr. Ambedkar side, a number of young boys on 4/5 vehicles ie. one black Thar, Swift, Innova, Audi and i-10 and 2/3 motor cycles came there. Kanwarbir Singh @ Deo son of Goggy Sarpanch r/o village Bahadarke, Rajbir Cheema and Teji Grewal sitting in Thar, Dimanshu Kochhar, Harsh and Nawab Bajwa son of Vicky Bajwa along with some unknown persons came in second vehicle and as soon as they came there,

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Kanwarbir Singh sitting in the Thar fired at us with the pistol in his hand with intention to kill us and the young persons sitting in other vehicle also fired on us with the pistols in their hands. They all fired about 8-10 shots. That one of the bullet fired by Kanwarbir Singh hit on my left arm and one bullet hit in the stomach of Abhijit Singh Mand. There were about 10-12 unknown persons with them. We fled away from the spot to save our life and all these persons while giving abuses and threats also fled away from the spot along with their weapons in their vehicles. Cause of grudge is that our friend Dipanshu hires parties in Hotels and Restaurants and they were forcibly demanding passes of hotel Latore South City, Ludhiana.”

3. Learned counsel for the petitioner *inter alia* contends that the perusal of the FIR would indicate that the injury attracting offence under Section 307 of IPC is specifically attributed to the co-accused Karanbir Singh @ Deo and one co-accused namely Vatsal Gaggar has already been granted the concession of regular bail by this Court vide order dated 21.11.2023 in case bearing CRM-M No.55473 of 2023 (Annexure P-3) and the trial of the case is likely to take long time to conclude.

4. Mr. S.S. Behl, Advocate has put in appearance and filed his power of attorney on behalf of the complainant, which is taken on record. He opposes the bail of the petitioner on the ground that he was duly named in the FIR and was arrested by the police immediately at the spot after the occurrence. As such, the culpability of the petitioner is fully established in the alleged occurrence.

5. Per contra, the learned State counsel, on instructions from ASI Balwinder Singh, opposes the prayer of grant of regular bail to the petitioner on the ground that main accused is yet to be arrested and the petitioner's involvement in the alleged offence is fully established.

6. A two Judge Bench of Hon'ble Supreme Court in '***Satender Kumar Antil v. CBI***' (2022) 10 SCC 51, with respect to prevailing conditions

of undertrial prisoner in India has observed:

“6. Jails in India are flooded with undertrial prisoners. The statistics placed before us would indicate that more than 2/3rd of the inmates of the prisons constitute undertrial prisoners. Of this category of prisoners, majority may not even be required to be arrested despite registration of a cognizable offence, being charged with offences punishable for seven years or less. They are not only poor and illiterate but also would include women. Thus, there is a culture of offence being inherited by many of them. As observed by this Court, it certainly exhibits the mindset, a vestige of colonial India, on the part of the investigating agency, notwithstanding the fact arrest is a draconian measure resulting in curtailment of liberty, and thus to be used sparingly. In a democracy, there can never be an impression that it is a police State as both are conceptually opposite to each other.”

7. Having heard the learned counsel for the parties and after perusing the record of the case, it transpires that the petitioner was arrested on 12.10.2023. Culpability, if any, would be determined at the time of the trial. No useful purpose would be served by further detention of the accused-petitioner.

8. Keeping in view the role attributed to the petitioner and the fact that the injury attracting Section 307 of IPC is not attributed to the petitioner, the present petition is allowed without commenting upon the merits of the case lest it may prejudice the outcome of the trial, the petitioner-Manjot Singh *alias* Monu *alias* Manjyot Singh is ordered to be released on regular bail during trial on his furnishing bail bonds/surety bonds to the satisfaction of Illaqa Magistrate/Trial Court.

9. Nothing observed hereinabove shall be construed as expression of opinion of this Court on merits of the case and the trial Court shall proceed without being prejudiced by observations of this Court.

January 04, 2024
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(HARPREET SINGH BRAR)
JUDGE

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| (i) | Whether speaking/reasoned | Yes/No |
| (ii) | Whether reportable | Yes/No |