

CRM-M-60056-2024

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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-60056-2024 (O & M)
Date of decision: 12.12.2024

Dalip Saha alias Vinod alias Mukhiya Petitioner

V/s

State of Haryana ...Respondent

CORAM: HON’BLE MR. JUSTICE JASJIT SINGH BEDI

Present: Mr. Vikas Bishnoi, Advocate,
for the petitioner.

Mr. Ashok Singh Chaudhary, Addl.A.G., Haryana.

JASJIT SINGH BEDI, J. (Oral)

The prayer in the present petition under Section 483 BNSS is for the grant of regular bail to the petitioner in case FIR No.334 dated 07.11.2022 under Sections 307, 384, 387 and 506 IPC and Section 25 of the Arms Act, 1959 (Sections 452, 212 and 120-B IPC added during investigation) registered at Police Station City Ratia, District Fatehabad.



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2. The FIR came to be registered at the instance of Chander Sain and reads as under:-

“To, Mr. SHO Sahib, Police Station City Ratia. Sir, it is a request that I am Chandra Sain, son of Lajpat Rai, resident of Ward No. 2, Old Bazaar Ratia and I have a shop in the name of T S Electronics on Tohana Road, Ratia. Today evening at around 6.40 PM, I was closing the shop and I and the boy working at my shop, Sewak son of Nachhattar Singh, resident of Badalgarh, were outside the shop and the other boy working at my shop Ram, resident of Dadupur was in the shop. Meanwhile, an unknown young boy who entered my shop in front of us. What I thought was that this unknown boy had come to buy some goods, who had a cloth tied over his mouth and head. Seeing the unknown boy going inside the shop, Sewak also went inside the shop. My servant Sewak came out from inside and told me that unknown boy is calling you inside, I also went inside the shop and both my servants came outside the shop. Then that unknown young boy asked me where is your son Honey, to which I said that my son Honey has gone home. He told me his name is Sucha r/o Sahnal and said that if Rs 20 lakh is not received by the day after tomorrow, then your entire family will be killed and started showing the pistol he had with him. Having said this, the boy went outside the shop to his two friends on the road and all three fired at me with the pistol they had with them with the intention of killing me, which coincidentally I bent down and the two fires hit the glass of the shop and one fire hit the board above the shop. The three boys ran away while firing on the road and threatening to kill me and my family in a loud voice. You are requested to take

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strictest legal action against Sucha Singh and his two associates. sd Chander Sain Applicant Chandra Sain son of Lajpat Rai resident Ward No. 02 Old Bazaar Ratia Mob. 93549-04515”.

3. During the course of investigation, on 21.11.2022, Paras alias Honey (son of the complainant) was joined in investigation and got recorded his statement under Section 161 Cr.P.C. to the effect that the two person who had come to the shop of the complainant alongwith Sucha Singh were Suraj (since granted the concession of bail vide a common order dated 25.01.2024 passed in CRM-M-63320-2023) and Deepak @ Deepu (since granted the concession of bail vide order dated 01.12.2023 passed in CRM-M-58839-2023, Annexure P-2). He further stated that Sucha Singh and Sandeep @ Sonu Sandha had made threatening calls and had demanded a sum of Rs.20 lacs.

Two co-accused, namely, Suraj and Deepak @ Deepu were joined in investigation and arrested. They disclosed the name of Jagsir @ Jagseer Singh @ Jassi (since granted the concession of bail vide a common order dated 25.01.2024 passed in CRM-M-31865-2023, Annexure P-4) who was also arrested. Deepak @ Deepu got recovered one mobile phone make OPPO with SIM No.74047-82296 and a Bajaj Pulsar motorcycle bearing Registration No.HR23F7038. Jagsir @ Jassi got recovered a mobile phone make SAMSUNG with SIMs 75022-00046 and 81684-26836 and a motorcycle bearing registration No.HR-59-4144 along with make Splendor

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Plus along with Registration Certificate. Co-accused Suraj got recovered a mobile phone make SAMSUNG with SIMs 97290-50821 and 98780-90821.

On 23.11.2022, Deepak @ Deepu disclosed the manner in which the occurrence had taken place and got recovered one 0.315 bore illegal pistol used in the occurrence.

On 24.11.2022, during the course of investigation, Deepak @ Deepu got recorded his second disclosure statement to the effect that the persons accompanying Sucha Singh were Avtar Singh @ Tari and Manpreet @ Kali (since granted the concession of bail vide order dated 26.09.2024 passed in CRM-M-47081-2024, Annexure P-5) and one Rohit (since granted the concession of bail vide order dated 22.12.2023 passed in CRM-M-63882-2023, Annexure P-3) had dropped Avtar Singh @ Tari and Manpreet Singh @ Kali on a motorcycle near Rampark Ratia.

On 30.11.2022, Avtar Singh @ Tari and Manpreet Singh @ Kali were arrested and suffered their disclosure statements explaining the manner in which the occurrence had taken place. Avtar Singh @ Tari got recovered .32 bore pistol, 03 live cartridges and 01 empty magazine. Manpreet Singh @ Kali got recovered one .315 bore illegal pistol and 01 live cartridge.

On 06.12.2022, Sucha Singh was arrested and got recovered 0.32 bore pistol, 04 live cartridges and a motorcycle make Splendor Plus alongwith the clothes worn by him at the time occurrence.

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On 12.12.2022, Rohit was arrested and got recovered a motorcycle CT-100.

On 16.01.2023, Sandeep @ Sonu Sandha was joined in investigation and disclosed the name of the petitioner-Dalip Shah @ Mukhiya resident of District Madhubani (Bihar) who provided an accommodation to him (Sandeep @ Sonu Sandha) and Sucha Singh. The petitioner had provided weapons used in the commission of the offence.

Production warrants of the petitioner-Dalip Shah @ Mukhiya were got issued and on 29.12.2023, he was joined in investigation and arrested in the present case. He suffered his disclosure statement that he had sold the illegal pistols alongwith cartridges to Sandeep @ Sonu Sandha for an amount of Rs.65,000/- and the said pistols and cartridges were purchased by him from one Tarbej at Railway Station Rajnagar, District Madhubani, Bihar.

On completion of the investigation, the report under Section 173(2) Cr.P.C. came to be submitted against 07 accused, namely, Suraj, Deepu @ Deepak, Jagseer Singh @ Jagsir @ Jassi, Avtar Singh @ Tari, Manpreet Singh @ Kali, Sucha Singh and Rohit under Sections 307, 384, 387, 506, 212, 120-B, 34, 452 IPC and Section 25 of the Arms Act. A supplementary challan was submitted against co-accused Sandeep @ Sonu Sandha on 13.03.2023. Further, a supplementary challan was submitted against the petitioner on 22.03.2024.



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4. The learned counsel for the petitioner contends that other than the various disclosure statements of accused who were arrested from time to time, allegedly naming the petitioner, where was absolutely no admissible evidence inculcating the petitioner in the commission of the offence in question. The co-accused, namely, Deepak @ Deepu, Rohit, Jagsir @ Jassi, Suraj and Manpreet @ Kali had been granted the concession of bail by this Court. As the petitioner was in custody since 29.12.2023 but none of the 42 prosecution witnesses had been examined so far, the Trial of the present case was not likely to be concluded anytime soon and therefore, he was entitled to the concession of bail.

5. The learned counsel for the State, on the other hand, has filed a status report by way of an affidavit of Sanjay Kumar, HPS, Deputy Superintendent of Police, Ratia, District Fatehabad (Haryana) which is taken on record. While referring to the said status report, he contends that the petitioner was one of the main accused having supplied the weapons of offence. He was an accused in multiple cases as was evident from the status report/affidavit in question. Therefore, he was not entitled to the concession as prayed for. He, however, concedes that the petitioner was in custody since 29.12.2023 but none of the 42 prosecution witnesses had been examined so far and that five co-accused had been granted the concession of bail.

7. I have heard the learned counsel for the parties.



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8. The veracity of the prosecution case against the petitioner and his co-accused shall be adjudicated upon during the course of the Trial. Admittedly, the petitioner is stated to be in custody since 29.12.2023 but none of the 42 prosecution witnesses have been examined so far. Therefore, the Trial of the present case is not likely to be concluded anytime soon. In this situation, the further incarceration of the petitioner is not required, moreso, when five co-accused have been granted the similar relief.

9. Thus, without commenting on the merits of the case, the present petition is allowed and the petitioner, namely, Dalip Saha alias Vinod alias Mukhiya is ordered to be released on bail subject to his furnishing bail bonds and surety bonds to the satisfaction of learned CJM/Duty Magistrate, concerned.

10. The petitioners shall appear before the police station concerned on the first Monday of every month till the conclusion of the Trial and inform in writing each time that he is not involved in any other crime/case(s) other than the cases referred to in the status report/affidavit dated 09.12.2024.

11. If any attempt whatsoever is made by the petitioner and/or his family members/friends to contact/threaten/intimidate any of the witnesses of the present occurrence, the State/complainant shall be at liberty to move an application for cancellation of bail granted vide this order.

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12. In addition, the petitioner (or anyone on his behalf) shall prepare an FDR in the sum of Rs.2,00,000/- and deposit the same with the Trial Court. The same would be liable to be forfeited as per law in case of the absence of the petitioner from Trial without sufficient cause.

13. The petition stands disposed of.

December 12, 2024
sukhpreet

(JASJIT SINGH BEDI)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No