



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

207

**CRM-M No.1192 of 2025
Date of decision : 17.1.2025**

Deepak Kumar alias Deepu**Petitioner**

Versus

State of Punjab**Respondent**

CORAM: HON'BLE MR. JUSTICE SUMEET GOEL

Present: Mr. Digvijay Nagpal, Advocate, for the petitioner
Mr. Anup Singh, AAG, Punjab

SUMEET GOEL, J. (ORAL)

1. Present petition has been filed under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (for short 'BNSS') for grant of regular bail to the petitioner in case FIR No.62 dated 13.3.2019, under Sections 25/54/59 of Arms Act, 1959, registered at Police Station Kotwali Patiala, District Patiala.
2. The case set up in the FIR in question (as set out in the present petition by the petitioner) is as follows:-

'At this time through ruqa ST Sher Singh division number 2 Patiala a case has been registered against Tarun Kumar alias Seepa son of Om Prakash resident of house number 771 Mohalla Balmiki near Galiara Sri Harmandir Sahib Amritsar police station division number 6 Amritsar, Deepak Kumar alias Deepu son of Subash Chand resident of Kirayadar Kila Raipur police station Sadar Ludhiana district Ludhiana by hand sepoy Divjot Singh 1310 came present at police station which is filed as under the main officer police station Kotwali Patiala Jai Hind today ST along with ST Subah Singh, ST Nirmal Singh, constable Ajaib Singh 1619,



sepoy Divjot Singh 1310, sepoy Amritpal Singh 1467 and PHG Om Prakash 18409 Through investigation in connection with FIR number 58 of dated 08/03/2019 under section 379, 411,34 IPC police station Kotwali Patiala were present at old Chungi Dakala Road banks of river then accused Tarun Kumar alias Seepa son of Om Prakash resident of house number 771 Mohalla Balmiki near Galiar Sri Harmandir Sahib Amritsar police station division number 6 Amritsar according to the Fard moving in the front of the police party from old dkawa chungi to bana river and then move down toward the chund hill under the kicar tree the pistol which was wrapped in the polythene and was buried under it pistol 32 bore with 2 live cartridges was move out from the sand with his own hands. The separate sample was prepared for the recovered pistol and magazine pistol 32 bore along with magazine two live rounds are being deposited with his own hands. samples in two different samples and were stamped with the letters SS and separate sample was prepared for pistol 32 bore and magazine stamp after use was handed over to ASI Suba Singh along with the sample of two magazine two rounds alive with SS and one sample magazine and after that they were taken into police position by preparing different memos and then witnesses were prepared and then accused Tarun Kumar Seepa and Deepak Kumar Deepu above said were enquired about having arms license upon putting this in their possession and they desired there in competence and this differs the crime of 25/54/59 arms act.'

3. Learned counsel for the petitioner has argued that the petitioner was initially arrested in the FIR on 13.3.2019 whereinafter he was granted bail on 8.4.2019. Learned counsel has further submitted that the petitioner was duly appearing before the concerned trial Court but could not appear on 8.10.2021 as also on subsequent dates due to COVID-19 pandemic as also on account of the clerk of the learned defence counsel telling him the wrong date. Learned counsel for the petitioner has further submitted that the petitioner was thereafter declared a proclaimed offender on 19.4.2022 and was subsequently arrested on 27.8.2024 and is



in continuous custody since then. Learned counsel has submitted that the petitioner was earlier granted the concession of regular bail on the merits of the case and there was no cause to jump the bail. Non-appearance of the petitioner before the concerned trial Court was on account of *bona fide* reason. Learned counsel for the petitioner has further submitted that the prime prosecution evidence available against the petitioner is disclosure statement of petitioner himself which is a weak form of evidence. Thus, regular bail is prayed for.

4. Learned State counsel has opposed the present petition by arguing that the allegations raised are serious in nature and thus the petitioner does not deserve the concession of the regular bail. Learned State counsel seeks to place on record custody certificate dated 16.1.2025 in Court, which is taken on record.

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

6. The petitioner was initially arrested on 13.3.2019 and was thereafter granted bail on 8.4.2019. Thereafter, on having jumped bail and thereafter having become proclaimed offender on 19.4.2022, the petitioner was re-arrested on 27.8.2024 and is in continuous custody since then. The rival contention of learned counsel for the parties; as to whether the petitioner has been falsely implicated into the FIR in question, as also the veracity/weightage required to be attached to the alleged disclosure statement made by the petitioner; shall be gone into during the course of trial. It is not in dispute that 12 prosecution witnesses have been cited and



the charges are yet to be framed & it is, indubitable, culmination of the trial will take long. Nothing tangible has been brought forward to indicate that the petitioner is in a position to influence the prosecution witnesses. As per custody certificate dated 16.1.2025 filed by learned State counsel, the petitioner has already suffered incarceration for a period of 4 months and 20 days post his being re-arrested in the present FIR.

As per the said custody certificate, the petitioner is stated to be involved in 2 more cases. Indubitably, the antecedents of a person are required to be accounted for while considering a regular bail petition preferred by him. However, this factum cannot be a ground sufficient by itself, to decline the concession of regular bail to the petitioner in the FIR in question when a case is made out for grant of regular bail *qua* the FIR in question by ratiocinating upon the facts/circumstances of the said FIR. Reliance in this regard can be placed upon the judgment of the Hon'ble Supreme Court in *Maulana Mohd. Amir Rashadi v. State of U.P. and another, 2012 (1) RCR (Criminal) 586*; a Division Bench judgment of the Hon'ble Calcutta High Court in case of *Sridhar Das v. State, 1998 (2) RCR (Criminal) 477* & judgments of this Court in *CRM-M No.38822-2022* titled as *Akhilesh Singh v. State of Haryana*, decided on 29.11.2021, and *Balraj v. State of Haryana, 1998 (3) RCR (Criminal) 191*.

Suffice to say, further detention of the petitioner as an undertrial is not warranted in the facts and circumstances of the case.

7. In view of above, the present petition is allowed. Petitioner is



ordered to be released on regular bail on his furnishing bail/surety bonds to the satisfaction of the Ld. concerned CJM/Duty Magistrate. However, in addition to conditions that may be imposed by the concerned CJM/Duty Magistrate, the petitioner shall remain bound by the following conditions:-

- (i) The petitioner shall not mis-use the liberty granted.
- (ii) The petitioner shall not tamper with any evidence, oral or documentary, during the trial.
- (iii) The petitioner shall not absent himself on any date before the trial.
- (iv) The petitioner shall not commit any offence while on bail.
- (v) The petitioner shall deposit his passport, if any, with the trial Court.
- (vi) The petitioner shall give his cell-phone number to the Investigating Officer/SHO of concerned Police Station and shall not change his cell-phone number without prior permission of the trial Court/Illaq Magistrate.
- (vii) The petitioner shall not in any manner try to delay the trial.

8. In case of breach of any of the aforesaid conditions and those which may be imposed by concerned CJM/Duty Magistrate as directed hereinabove or upon showing any other sufficient cause, the State/complainant shall be at liberty to move cancellation of bail of the petitioner.

9. Ordered accordingly.

10. Nothing said hereinabove shall be construed as an expression of opinion on the merits of the case.

(SUMEET GOEL)
JUDGE

17.1.2025
Ashwani