

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

107+215

CRM-M-24624-2024 (O&M)
Date of Decision:- 17.01.2025

LAKHAN KESAR ALIAS LAKHAN

....Petitioner(s)

Versus

STATE OF PUNJAB

...Respondent(s)

CORAM: HON'BLE MR. JUSTICE SANJIV BERRY

Present : Mr. Sandeep Arora, Advocate for
Mr. J.S. Thakur, Advocate for the petitioner.

Mr. Ankit Grewal, DAG Punjab.

SANJIV BERRY, J. (ORAL)

CRM-29379-2024

For the reasons stated in the application, same is allowed.

Annexures P-3 and P-4 are taken on record, subject to all just exceptions.

CRM-M-24624-2024

The instant petition has been preferred by the petitioner under Section 439 CrPC for grant of regular bail to the petitioner in the following case :-

FIR No.	Dated	Sections	Police Station
317	14.11.2023	302, 148, 149 IPC; 25 and 27 of the Arms Act; (120-B IPC added later on)	Rama Mandi, District Jalandhar Commissionerate

2. It is, *inter alia*, contended by learned counsel for the petitioner that the petitioner is innocent and has been falsely implicated in this case. He



submits that the petitioner is in custody since 15.11.2023, and after the completion of investigation, challan has been presented in the Court. He further submits that neither any specific overt act nor any injury has been attributed to the petitioner. He contends that the only role attributed to the petitioner is on the basis of disclosure statement given by co-accused Pawan Kumar alias Rattan that the petitioner had supplied the pistol to him, which was used in the commission of offence. He further contends that the said pistol was not even recovered from the petitioner but was recovered from co-accused Pawan Kumar alias Rattan, with whom the petitioner has no concern nor any corroborative evidence in this regard was brought on the file by the police. He submits that after the completion of investigation, challan has already been presented in Court, wherein no witness has been examined as of now. Hence prayed for grant of bail to the petitioner.

3. *Per contra*, learned State counsel while referring to the short reply filed by the State has assailed these arguments and prayed for dismissal of the petition, considering the nature and gravity of the offence. He has, however, admitted that no recovery has been effected from the petitioner in this case and the role attributed to the petitioner is based upon the disclosure statement given by co-accused Pawan Kumar alias Rattan of providing pistol to him, which was used in the crime.

4. Heard learned counsel for the parties and perused the record.

5. After considering the rival contentions and perusing the record, it transpires that though the petitioner was named in the FIR, however, the role attributed to the petitioner is on the basis of disclosure statement given



by co-accused Pawan Kumar alias Rattan alleging that the pistol used in the crime was supplied by the petitioner to him. Admittedly, the said pistol was not recovered from the petitioner, but was recovered from co-accused Pawan Kumar alias Rattan. Apart from this, no specific overt act has been attributed to the petitioner in the FIR. After being arrested on 15.11.2023, no recovery was effected from the petitioner and challan has already been presented in Court, wherein the prosecution has cited 33 witnesses and till date, none has been examined. The criminal liability, if any, of the petitioner, could only be determined after the conclusion of trial, which may take sufficient long time. In the circumstances, no purpose would be served by detaining the petitioner any longer.

6. Consequently, without commenting on the merits of the case, the present petition is allowed. The petitioner is ordered to be released on bail subject to his furnishing bail bonds/surety bonds to the satisfaction of learned Trial Court/Judge on Duty/Duty Magistrate concerned, if not required in any other case; undertaking to regularly appear on each and every date; not to leave the country without prior permission of the Court; and not to tamper with evidence of prosecution in any manner.
7. Any observation made above shall not be construed as opinion of this Court on the merits of the case.

(SANJIV BERRY)
JUDGE

17.01.2025
S.Sharma(syr)

i)	Whether speaking/reasoned?	Yes/No
ii)	Whether reportable?	Yes/No