



IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-35822-2024 (O & M)
Date of decision: 24.01.2025

Chanchal Athwal @ Kala	 Petitioner
V/s	
State of Punjab	...Respondent

CORAM: HON’BLE MR. JUSTICE JASJIT SINGH BEDI

Present: Mr. Umesh Aggarwal, Advocate, for the petitioner.
Mr. Harkanwar Jeet Singh, AAG, Punjab.

JASJIT SINGH BEDI, J. (Oral)

The prayer in this second petition under Section 439 Cr.P.C. is for the grant of regular bail to the petitioner in case FIR No.81 dated 12.03.2021 under Sections 302, 148, 149, 506 and 120-B IPC and Sections 25/27 of the Arms Act, 1959 registered at Police Station Ranjit Avenue, District Amritsar.

2. The present FIR came to be registered at the instance of Dilbagh Singh, who stated that he was an Auto Driver and had two sons. His elder son was Jashanbir Singh @ Jassi and younger son is Sachinbir Singh. Chanchal @ Kala (petitioner), Sunny Paddar (since granted bail vide order dated 21.10.2022 passed in CRM-M-43258-2021), Daani (since granted bail vide order dated 16.12.2022 passed in CRM-M-58082-2022), Tuti (since granted bail vide order dated 11.10.2022 passed in CRM-M-37879-2021), Daddu and Sajan Teela (since granted bail vide order dated 14.11.2022 passed in CRM-M-51524-2022) were holding a grudge against his elder son-



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Jashabir Singh @ Jassi because of some arguments that had taken place earlier and had given threats to kill the said Jashanbir Singh @ Jassi. A few days prior to the occurrence, they had come to his house but his elder son was not present there and these youths had told him that they intended to kill his son and they went away after issuing threats. On 11.03.2021, at about 7.45 p.m., he (complainant) alongwith his younger son-Sachinbir Singh and elder son-Jashanbir Singh @ Jassi departed from their house on a motorcycle and were going to his in-laws house at Navi Abadi. His elder son Jashanbir Singh @ Jassi was on his motorcycle in front of them and younger son-Sachinbir Singh was behind him on the said motorcycle. Meanwhile, Chanchal @ Kala, Sunny Paddar, Tuti, Daani, Daddu and Sajan Teela were standing on the street. Chanchal @ Kala and Daddu were holding pistols in their hands. Sunny Paddar, Tuti, Daani and Sajan Teela raised a *lalkara* that '*they had found Jashanbir Singh @ Jassi and he ought to be killed*'. Thereafter, Chanchal @ Kala fired a shot, which struck Jashanbir Singh @ Jassi in the chest whereas Daddu fired a shot which struck Jashanbir Singh @ Jassi on the back. He fell down and on a hue and cry being raised, the accused fled away from the spot. The deceased-Jashanbir Singh @ Jassi was thereafter taken to the hospital by him and his son (complainant and his younger son-Sachinbir Singh).

During the course of investigation, it transpired that it was Shamesher Singh @ Daani @ Shera who fired a gun-shot from his country-made pistol .32 bore at the deceased which struck his chest. The present petitioner also tried to fire a gun-shot from his country-made pistol .12 bore, but the shot did not fire. Therefore, he grabbed the pistol from Shamsher



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Singh and fired one shot at Jashanbir Singh (deceased) which struck his back. Sajan Kalyan @ Daddu was found to be innocent.

From the body, a bullet was recovered which matched the weapon used by Shamsher Singh @ Daani @ Shera.

3. The learned counsel for the petitioner contends that the eye version account emanating from the FIR runs counter to the investigation. As per the statement of the complainant, it was the petitioner who had fired at the chest of the deceased whereas during the course of investigation, it transpired that Shamsher Singh @ Daani @ Shera had fired at the chest of the deceased whereas the petitioner had used the weapon of Shamsher Singh and had fired at the back of the deceased. It would certainly be a moot point during the course of the Trial as to who had fired the fatal shot. PW-4/Dilbagh Singh (complainant) and PW-8/Sachinbir Singh (eye-witness), the father and the brother of the deceased have not supported the prosecution case. As the petitioner was in custody since 18.03.2021 but only 13 out of the 24 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.

4. The learned counsel for the State, on the other hand, while referring to the reply dated 18.10.2024 contends that as per the FIR, the petitioner was the main accused having fired at the deceased. Therefore, he was not entitled to the concession of bail, particularly, in the context of his antecedents inasmuch as he was an accused in six other cases. He, however, concedes that the version in the FIR was somewhat different from what had been found during the course of investigation, that both the material witnesses had not supported the prosecution case, that the petitioner was in



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custody since 18.03.2021 and that only 13 out of the 24 prosecution witnesses had been examined so far.

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

6. The veracity of the prosecution case against the petitioner and his co-accused shall be adjudicated upon during the course of the Trial. Admittedly, both the material witnesses, namely, Dilbagh Singh (PW-4) and Sachinbir Singh (PW-8), the father and brother of the deceased, have not supported the prosecution case. Shamsher Singh @ Daani @ Shera, who as per the investigation has fired the shot on the chest of the deceased has been bail by this Court vide order dated 16.12.2022 in CRM-M-58082-2022. The petitioner is stated to be in custody since 18.03.2021 but only 13 out of the 24 prosecution witnesses have been examined so far. In this situation, his further incarceration is not required even though, he is a habitual offender with multiple other cases.

7. In view of the above, the further incarceration of the petitioner is not required. Thus, without commenting upon the merits of the case, the present petition is allowed and the petitioner, namely, Chanchal Athwal @ Kala is ordered to be released on bail to the satisfaction of the Trial Court/Duty Magistrate concerned.

8. The petitioner shall appear on the first Monday of every month before the local police station till the conclusion of the trial and furnish an affidavit each time that he is not involved in any crime other than the cases referred to in the custody certificate dated 22.01.2025.

9. In addition, the petitioner (or someone 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.

10. This petition stands disposed of.

(JASJIT SINGH BEDI)
JUDGE

January 24, 2025
sukhpreet

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No