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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-42474-2024

Decided on: 30.01.2025

Anmol Sharma

. . . Petitioner

Versus

State of Punjab and others

. . . Respondents

CORAM: HON'BLE MS. JUSTICE KIRTI SINGHPresent : Mr. Ramnish Puri, Advocate
for the petitioner.

Mr. R.S. Thind, DAG Punjab

Mr. Rohit, Advocate
for respondents No. 2 and 3

KIRTI SINGH, J. (Oral)

The jurisdiction of this Court under Section 439 of Cr.P.C. has been invoked for grant of regular bail to the petitioner in case FIR No.235 dated 16.11.2023, under Sections 307, 120-B, 34 IPC and Sections 25, 27 of Arms Act, 1959 registered at Police Station Ranjit Avenue, District Amritsar.

2. The contents of the above-mentioned FIR are reproduced herein below:-

“Statement of Surinder Singh son of Shri Krishan Singh resident of Flat No. 155, L.I.G. Housing Board Colony Amritsar, age 35 years, Mob. No: 75080-52882; stated that I am resident of above-mentioned address and doing the work of T.V. myua repair in my house. That my son Neeraj age 23 years, who in front of Solar Steam near at BSNL Telephone Exchange near Beant Park Ranjeet Avenue Amritsar is driver by profession, who left the house at 4 AM for work and



returned to house in the evening at 4 PM and at around 8 AM, I used to go to my son's office Neeraj to deliver breakfast and as usual today also for delivering breakfast to my son Neeraj at around 8 AM going to his office riding motorcycle, when I reached in front of BSNL Telephone Exchange Ranjeet Avenue Amritsar after turn of Beant Park, I saw that my son Neeraj was standing in front of BSNL Exchange on the other side of the road and was calling someone. In the meantime, one white color Verna Car came there and out of which Sarthak son of Deepak Kumar & Anmol resident of Majitha Road Amritsar came out. Sarthak exhorted that Anmol, Neeraj is brought into grasp. he will not be spared at any cost, who with the intention of killing, Sarthak took out pistol, fired 4/5 bullets upon my son Neeraj, which hit on my son's back and leg, upon which my son got blood stained and fell on the ground and Anmol having some sharp thing in his hand, who hit it on my son's head and in the car the boy who was driving and on the front seat of car Sarthak's father Deepak Sharma was sitting, who did not come out of the car. Upon which I made hue & cry "Mar Dita" then, all the accused with their weapons fled away boarding the car. Earlier also, my son Neeraj Kumar was attacked twice by Sarthak son of Deepak Kumar, regarding which FIRs were registered in Police Station Ranjeet Avenue Amritsar. The bone of grudge is that they used to play earlier and while playing they got into commotion. That my son Neeraj Kumar was attacked through bullets with the intention of killing by Sarthak his companion Anmol son of Deepak Kumar and one unknown person. That my son Neeraj Kumar is under-treatment at Hartej Hospital. That the statement got recorded. Above accused is known to me. The statement is read, heard, correct. Kindly against them legal action be taken. SD/- Surinder Singh."

3. Learned counsel for the petitioner submits that petitioner has been falsely implicated in this case. He further submits that petitioner has undergone an actual custody of 01 year, 01 month and 24 days. He submits that the material



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witnesses i.e. the complainant and the injured have turned hostile qua the petitioner.

4. *Per contra* learned State counsel on instructions submits that charges were framed on 22.10.2024 and out of total of 38 prosecution witnesses, two prosecution witnesses have been examined. In compliance of order dated 13.01.2025, learned State counsel has filed status report in the Court today and submits that the material witnesses i.e. the complainant and the injured have turned hostile qua the petitioner. He further submits that petitioner has undergone an actual custody of 01 year, 01 month and 24 days and there are 04 other cases pending against him, however, he is on bail in all the cases. However, in view of the serious allegations against the petitioner, he is not entitled to the concession of regular bail.

5. Having heard learned counsel for the parties and after perusing the record of the case, it transpires that the petitioner is behind the bars since 16.11.2023. The trial of the case has not made much progress as out of 38 prosecution witnesses, two prosecution witnesses have been examined so far. No useful purpose shall be served by further detention of the accused/petitioner. Keeping the petitioner in further detention without the prospect of the trial being concluded in the near future, would be violate of his rights under Article 21 of the Constitution of India including the right to speedy trial, and is against the principle “Bail is a rule, jail is an exception” as elucidated in the judgment of Apex Court in **“Dataram Singh vs. State of Uttar Pradesh and another”, (2018) 3 SCC 22.**

6. As regards the submission of learned State counsel that petitioner is involved in four more criminal cases, it has been held by the Hon’ble Supreme Court in **Maulana Mohd. Amir Rashadi Vs. State of U.P. and another, 2012 (2)**



SCC 382 that the facts and circumstances of the present case are to be seen while deciding a bail application and the bail application of the petitioner cannot be rejected solely on the ground that the petitioner is involved in another case. The relevant portion of the said judgment is reproduced herein-below:-

“As observed by the High Court, merely on the basis of criminal antecedents, the claim of the second respondent cannot be rejected. In other words, it is the duty of the Court to find out the role of the accused in the case in which he has been charged and other circumstances such as possibility of fleeing away from the jurisdiction of the Court etc.”

7. Without commenting anything on the merits of the case, lest it may prejudice the trial, the present petition is allowed and the petitioner is ordered to be released on regular bail on his furnishing adequate bail/surety bonds to the satisfaction of the concerned learned trial Court/Duty Magistrate. The petitioner shall also abide by the following conditions:-

- (i) The petitioner will not tamper with the evidence during the trial.
- (ii) The petitioner will not pressurize/intimidate the prosecution witness(s).
- (iii) The petitioner will appear before the trial Court on the date fixed, unless personal presence is exempted.
- (iv) The petitioner shall not commit an offence similar to the offence of which he is accused of, or for commission of which he is suspected.
- (v) The petitioner shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or to any police officer or tamper with the evidence.

8. In case of breach of any of the above conditions, the prosecution shall be at liberty to move an application for cancellation of bail before this Court.



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9. However, nothing stated above shall be construed as a final expression of opinion on the merits of the case and the trial Court would proceed independently of the observations made in the present case which are only for the purpose of adjudicating the present bail petition.
10. Pending miscellaneous application(s), if any, also stands disposed of.

(KIRTI SINGH)
JUDGE

30.01.2025
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Whether speaking/reasoned: Yes/No
Whether Reportable: Yes/No