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IN THE HIGH COURT OF PUNJAB AND HARYANA  
AT CHANDIGARH

CRM-M-52035-2024 (O&amp;M)

Date of Decision: 15.01.2025

SUNIL KUMAR

.. Petitioner

Vs.

STATE OF PUNJAB

..Respondent

CORAM: HON'BLE MR. JUSTICE SUMEET GOEL

Present: Mr. Sumeet S. Brar, Advocate and  
Mr. Charnjit Singh, Advocate for the petitioner.

Mr. Anup Singh, AAG, Punjab.

...

**SUMEET GOEL, J. (Oral)**

1. Present petition has been filed under Section 439 Cr.P.C. read with Section 483 BNSS, 2023 for grant of regular bail to the petitioner in case bearing FIR No.294 dated 13.12.2023, registered for the offences punishable under Sections 307, 506 and 34 of IPC and Sections 25 and 27 of Arms Act at Police Station Sahnewal, District Ludhiana.

2. The case set up in the FIR in question (as set out by the petitioner in the present petition) is as follows:-

*“Statement of Sourav Kumar s/o Shashi Kumar r/o mohalla Balmik Ward no 5, Village Sahnewal, Ludhiana age 28 years mobile that i am resident of above address and on 10.12.2023, i was present at at my shop "Sourav Kariana Store" Kanoch Road, Old Bazaar Sahnewal, Ludhiana. At about 9:30 PM, when i was arranging articles in my shop to close it then four unknown persons have cut hair, came in front of my shop on motorcycle and they were wearing masks. Upon coming at my shop they ask for cigarette and stated that where is your father and start pushing me inside the shop to take me in the shop. When i resisted them then they show some pistol shaped thing, i thought that it is fake Upon my resistance, they fired at me with the intention of killing me. I immediately went aside and fire went away from near me. Due to that i was spared. The attacker saw the people coming from the bazaar and then two persons along with them pulled them and ran away from the spot on their respective weapons: So till today i was consulting with the relatives. Today i was coming to police*

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*station to inform about the above incident. You met me in Sahnewal Chowk and kindly take appropriate action against the unknown persons.”*

3. Learned counsel for the petitioner has argued that the petitioner is in custody since 26.02.2024. Learned counsel for the petitioner has submitted that the petitioner has been falsely implicated into the FIR in question. Learned counsel for the petitioner has further submitted that the prime basis of putting up a challan against the petitioner is a disclosure statement alleged to have been made by him in another FIR; no TIP (Test Identification Parade) was conducted by the police so as to connect the petitioner with the offence in hand; no recovery has been effected from the petitioner and the alleged fire shot is attributed to co-accused, namely, Sukhdev Singh @ Vicky which has not hit anyone. Hence, regular bail is prayed for.

4. Learned State counsel has filed status report in the Court today and the same is taken on record. He has opposed the present petition arguing that the allegations raised are serious in nature and thus the petitioner does not deserve the concession of the regular bail.

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

6. The petitioner was arrested on 26.02.2024 whereinafter investigation was carried out & challan was presented on 29.05.2024. Total 23 prosecution witnesses have been cited and none has been examined till date. Therefore, it is indubitable that the culmination of the trial will take its own time. The rival contention of the learned counsel for the parties; as to whether the petitioner has been falsely implicated into the FIR in question; the veracity/weightage required to be attached to the disclosure statement

made by the petitioner; the veracity/weightage required to be attached to the

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factum of the TIP (Test Identification Parade) not having been conducted by the police as also as to whether the alleged fire shot is attributed to co-accused Sukhdeep Singh @ Vicky which has not hit anyone and role of petitioner therein; shall be gone into during the course of trial. This Court does not deem it appropriate to delve deep into these rival contentions, at this stage, lest it may prejudice the trial. Nothing tangible has been brought forward to indicate the likelihood of the petitioner absconding from the process of justice or interfering with the prosecution evidence. As per the custody certificate dated 14.01.2025 filed by the learned State counsel, the petitioner has suffered incarceration for more than 10 months and 19 days. As per the said custody certificate, the petitioner is said to be involved in other FIR(s) also. 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 vs. State of U.P. and another, 2012(1) R.C.R. (Criminal) 586***; a Division Bench judgment of the Hon'ble Calcutta High Court in case of ***Sridhar Das vs. State, 1998(2) R.C.R. (Criminal) 477*** & judgments of this Court in ***CRM-M-38822-2021*** titled as ***Akhilesh Singh vs. State of Haryana***, decided on 29.11.2021 and ***Balraj vs. State of Haryana, 1998(3) R.C.R. (Criminal) 191***. Suffice to say further detention of the petitioner as an undertrial is not warranted in the facts and circumstances of the present case.

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7. In view of totality of factual matrix of the present case, the instant 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 cellphone 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/Illaqha 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

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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.
11. Since the main case has been decided, pending miscellaneous application, if any, shall also stands disposed off.

15.01.2025  
*Jasmine Kaur*

(SUMEET GOEL)  
JUDGE

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|---------------------------|-----|----|
| Whether speaking/reasoned | Yes | No |
| Whether reportable        | Yes | No |