

2025:PHHC:001243



240.

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

CRM-M-64267-2024

Date of decision: 08.01.2025

Sham Singh @ Shama Don

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present: Mr. L.M. Gulati, Advocate, for the petitioner.

Mr. Navdeep Singh, DAG, Punjab.

MANJARI NEHRU KAUL, J. (ORAL)

1. Present petition has been filed under Section 439 of Cr.P.C. for grant of regular bail to the petitioner in cross version recorded vide DDR No.30, dated 18.01.2024, under Sections 307, 323, 324, 160, 148, 149 of IPC, 1860, Sections 25, 27, 54, 59 of Arms Act, 1959 (Sections 212, 216, 120-B, 201 of IPC added lateron) in case FIR No.132, dated 13.11.2023, under Sections 302, 307, 160, 323, 324, 148, 149 of IPC, 1860 and Sections 25, 27, 54, 59 of Arms Act, 1959 (Sections 212, 216, 120-B, 473 of IPC added lateron), registered at Police Station Division-D, Amritsar City, District Amritsar.

Learned counsel for the petitioner has submitted that a perusal of the DDR, annexed as Annexure P-2, reveals that the petitioner was not

named as an accused therein nor was any suspicion raised regarding his involvement in the occurrence in question. The petitioner was implicated as an accused only after the arrest and interrogation of co-accused Shamsher Singh. It has been contended that during his interrogation, co-accused Shamsher Singh alleged that, after the incident that occurred on the intervening night of 12/13.11.2023, the petitioner provided shelter to the co-accused following their flight from the scene of crime.

Learned counsel has further contended that the DDR as well as the FIR clearly suggest that the incident arose out of a sudden quarrel between two groups of armed individuals in an open street late at night. Furthermore, according to the case of the prosecution, this altercation resulted in one individual from the petitioner's side losing his life, while another from the opposite group sustained firearm injuries. It has been emphasized by the learned counsel that, even as per the version put forth by the prosecution, the petitioner was not present anywhere in the vicinity of the scene of crime.

Learned counsel for the petitioner has still further argued that even if it is assumed, solely for the sake of argument and without conceding, that the petitioner provided shelter to the co-accused, this act would not render the petitioner liable for the events of that night, particularly as he lacked any motive or intent to conspire with the co-accused. It has also been highlighted that the investigation is complete, charges have been framed and 42 prosecution witnesses remained to be

examined, making it unlikely that the trial will conclude in the near future. A prayer has therefore been made that in the aforementioned facts and circumstances, the petitioner be enlarged on bail.

Per contra, learned counsel for the State has vehemently opposed the prayer and submissions made by the counsel opposite. It has been asserted, on instructions, that the petitioner has a history of criminal antecedents and his involvement in several other criminal cases. However, learned State counsel, on instructions, has not disputed the petitioner's absence from the place of occurrence; the custody period as well as the stage of trial has also not been disputed by the learned State counsel. However, learned State counsel has reiterated the allegations against the petitioner that he provided shelter to the co-accused after the occurrence in question.

I have heard learned counsel for the parties and perused the material placed on record.

The role attributed to the petitioner in the present case is limited to providing shelter to the co-accused after the alleged occurrence. *Prima facie*, the occurrence appears to have been a sudden altercation between two armed groups, resulting in injuries and one fatality on the side of the petitioner. It is undisputed that the petitioner was not present at the scene of the incident.

While the petitioner has other criminal cases pending against him, the facts and circumstances of this case including the role attributed to

the petitioner do not suggest his direct involvement in the altercation or any conspiracy. There is no likelihood of the early conclusion of the trial, given the number of witnesses yet to be examined.

In the facts and circumstances as enumerated hereinabove, this Court deems it fit to extend the concession of bail to the petitioner.

Accordingly, the instant petition is allowed and the petitioner be admitted to bail on his furnishing bail/surety bonds to the satisfaction of the Trial Court/Duty Magistrate concerned. However, it is made clear that anything observed hereinabove shall not be construed to be an expression of opinion on the merits of the case.

(MANJARI NEHRU KAUL)
JUDGE

January 08, 2025
sanjeev

Whether speaking/reasoned:	Yes/No
Whether reportable:	Yes/No