



241 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-6045-2025

Date of Decision: 06.02.2025

Gaurav Kapila

...Petitioner

vs.

State of Punjab

...Respondent

Coram : Hon'ble Mr. Justice N.S.Shekhawat**Present :** Mr. Fatehjeet Singh, Advocate
for the petitioner.

Mr.M.S.Bajwa, Deputy Advocate General, Punjab.

N.S.Shekhawat J. (Oral)

1. The petitioner has filed the instant petition under Section 439 of the Cr.P.C. with a prayer to grant regular bail to him in case FIR No.39 dated 15.03.2024 registered under Sections 307, 326, 34 of IPC and Sections 25 and 27 of Arms Act, at Police Station Division No.1, Jalandhar, District Jalandhar.
2. The FIR in the present case was registered on the basis of the statement made by Sunny alias Kaka son of Som Nath and the same has been reproduced below:-

“Statement of Sunny alias Kaka son of Sh.Som Nath, resident of H.No.1, Nehru Garden, Jalandhar, aged about 34 years, mobile No.94786-18786. It is stated that I am the resident of the above address and I have a shop in Red Cross Sunday Shoe Market in Jyoti Chowk and am the President of Sunday Shoe Market. On 13.03.2024, my friend Advocate Sunder Shergill resident of 588, Amrit Vihar, Jalandhar had invited me on the birthday function of his maternal nephew. There in the party, I



alongwith Sahil, Vicky, Abhey, Deepu resident of Jalandhar in a vehicle reached in the party at about 10.00 PM. There in the birthday party, the relatives of Sunder Shergill, Advocate and the relatives invited by him were already sitting and D.J. system was going on in the party. Upon reaching in the party, all of us were having the meals and in the meantime, Gaurav Kapila son of Sanjeev Kumar resident of Kot Kishan Chand, Jalandhar and Jarman Bal resident of Ashok Vihar, Jalandhar, invited by Advocate Sunder Shergill in the party, were dancing on the D.J., then Gaurav Kapila while dancing opened fire in air from the pistol/revolver carrying in his hand. When we stopped him from doing so, then he fired on me with the intention to kill me and the bullet hit near my nose and crossed my cheek and he fired second shot on my friend Sahil resident of Rishi Nagar, Jalandhar, which went from his side. Upon this, I raised hue and cry that I have suffered the bullet. Lot of blood was oozing. Upon this my friends were about to take me to the hospital in a vehicle for treatment. Then the unidentified persons came with Gaurav Kapila, Jarman Bal opened firing while sitting in their car. We drove away our cars and saved our lives. The son of my aunt namely Ravi got me admitted in Orthonova Hospital, for treatment, where I am under treatment. The reason of enmity is that about 10 days ago, about the parking of Jyoti Chowk Red Cross Market, Jalandhar, I had altercation with Chintu, Ganja, Cheema, Varun and 02 other unidentified persons. In respect of this, we had given an application to the Police station Division No.4, Commissionerate, Jalandhar. It seems to me that the attack would have been got made by the above persons. In respect of the dispute of this parking, after conducting the investigation, legal action be taken against the above persons. The reason of enmity of the incident of the night of 13.03.2024 is that Gaurav Kapila and Jarman Bal were opening firing in the D.J., party with the pistol revolver and



upon stopping them by me and Sahib they have opened firing on me and Sahil with the intention to kill. Legal action be taken against them. I have read, heard the statement, which is correct. Sd/- (English) Sunny. ”

3. Learned counsel for the petitioner contends that as per case of the prosecution, the petitioner had fired at Sunny son of Som Nath with an intention to kill him. However, Sunny had suffered two minor injuries and injury No.1 was declared to be grievous in nature. He further contends that the injured has already been discharged from the hospital and is hale and hearty. He further contends that the petitioner is in custody since 09.05.2024 and the charge is yet to be framed against him. Thus, the conclusion of the trial may take quite a long time and further custody of the petitioner will not serve any meaningful purpose.

4. On the other hand, learned State counsel has vehemently opposed the submissions made by learned counsel for the petitioner on the ground that three more FIRs have been ordered to be registered against the present petitioner and he does not deserve the concession of bail by this Court.

5. I have heard the learned counsel for the parties and perused the record.

6. No doubt, three more criminal cases have been registered against the petitioner, but the petitioner cannot be denied the concession of bail in the present case only on that ground because the petitioner has been able to make out a case for grant of bail in the peculiar facts and circumstances of the present case. The reliance can be placed on the law laid down by the Hon'ble Supreme



Court in the matter of “***Prabhakar Tewari Vs. State of U.P., and another***” 2020(1) R.C.R. (Criminal) 831, wherein it has been held that the pendency of several criminal cases against the accused cannot be the basis to refuse the prayer of bail. Similar observations have been made by the Hon'ble Supreme Court in the matter of “***Maulana Mohd. Amir Rashadi Vs. State of U.P., and another***” 2012(1) R.C.R. (Criminal) 586. The petitioner is continuing in custody for the last more than 08 months and the charge has not been framed against him so far. Thus, there are no chances of early conclusion of the trial. Moreover, the prosecution has not been able to place on record any material witness to show that the petitioner is in a position to influence the witnesses of the prosecution.

7. Without commenting on the merits of the case, the present petition is allowed and the petitioner is ordered to be released on bail subject to his furnishing bail bonds/surety bonds to the satisfaction of the trial Court/Duty Magistrate/Chief Judicial Magistrate, concerned, subject to the following conditions:-

- (i) *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 to disclose such facts to the Court or to any other authority.*
- (ii) *The petitioner shall remain present before the Court on the dates fixed for hearing of the case.*
- (iii) *The petitioner shall not absent himself from the Court proceedings except on the prior permission of the Court concerned.*



(iv) *The petitioner shall surrender his passport, if any, (if already not surrendered), and in case he is not holder of the same, he shall swear an affidavit to that effect.*

(v) *The petitioner shall also file his affidavit before the concerned Court, mentioning his ordinary place of residence and number of mobile phone, which shall be used by him during the pendency of the trial. In case of change of place of residence/mobile number, he shall share the details with the concerned Court/learned Trial Court.*

(vi) *In case, the petitioner involves in any other criminal activity, during the pendency of the trial, it shall be viewed seriously.*

(vii) *The concerned Court may insist on two heavy local sureties and may also impose any other condition, in accordance with law, while accepting the bails bonds and surety bonds of the petitioner.*

06.02.2025
hemlata

(N.S.SHEKHAWAT)
JUDGE

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