

**IN THE COURT OF RAJWINDER KAUR,
JUDGE, SPECIAL COURT-cum-
Additional District & Sessions Judge-cum-
FAST TRACK COURT
EXCLUSIVELY DEALING WITH RAPE CASES,
FEROZEPUR.
(Unique Identification Code NO.PB-0121)**

CIS No. BA/1479 of 2023
CNR No. PBFZ0100-4077-2023
Date of order : 05.07.2023

State

Versus

*Malkit Singh alias Manna, aged about 20 years son of Jagsir Singh,
resident of Village Dosanjh, District Moga.*

.....Applicant/accused.

FIR No. 94 dated 12.11.2022.

***Under Section 307, 506, 386, 511, 34 IPC
and Section 25/27/54/59 of Arms Act.***

Police Station : Talwandi Bhai

District : Ferozepur.

Bail application under Section 439 of Cr.P.C.

Present: ***Ms. Hema Talwar***, Adv.counsel for applicant/accused.
Sh.Rajeev Chaudhary, Additional PP for the State

ORDER.

1. **Malkit Singh alias Manna son of Jagsir Singh**
(applicant/accused) filed instant application ***under Section 439***
Cr.P.C., on the ground that, he is innocent and, has been falsely

implicated in the present case. It is submitted that, initially, FIR was registered against three unknown persons but lateron, applicant/accused has been nominated in the present case during investigation despite of the fact that, there is no evidence at all regarding alleged connection of applicant/accused with the alleged occurrence. Applicant/accused has been nominated only on the basis of extra judicial confession suffered by co-accused, which is inadmissible in the eyes of law regarding other co-accused. It is submitted that, as per allegations, no injury under Section 307 IPC is attributed to ***Malkeet Singh alias Manna***(applicant/accused) and, now he is in judicial custody since **19.01.2023**. Challan has been presented but trial has not been commenced so far. Since, conclusion of same shall take long time, therefore, prayer made for bail. (*Application is duly supported with affidavit*).

2. Notice of the application was given to the learned Additional Public Prosecutor for the State. No reply to the application has been filed but hotly contested the same. It is argued that, since instant case pertains to extortion and the complainant was not previous known to accused, thus, accused were not named in the FIR. He is the complainant, who during midnight, went outside courtyard and, came to know that three motorcyclists were roaming in front of his house.

So, in such like circumstances, descriptive features of the assailants were not disclosed. However, as weapon was recovered from the possession of the accused and, the same connects with the empty cartridges recovered from the spot, thus, serious offence has been committed. Therefore, opposed prayer.

3. Police record as well as record of the trial requisitioned, produced and perused.

4. I have heard **Ms. Hema Talwar**, Adv. learned counsel for the applicant/accused, **Sh.Rajeev Chaudhary**, learned Additional PP for the State and have gone through the record on file.

5. **Parminder Singh son of Bhagwan Singh (complainant)** suffered statement that, he is running shop under the name of Chauhan Jewellers at Main Bazar, Talwandi Bhai. They, three brothers are running shop and, of business of marriage palace where as two brothers are in abroad. They all brothers are having adjoining residences. On 23.10.2022, he received call of extortion from International No.+2229906861 and No.+63975890174 on his mobile No.98140-02163 but he refused. On 12.11.2022, at about 01:55 AM, he awakened on hearing noise of motorcycles in front of door of his house. When, he went near to gate, he saw three motorcyclists roaming in the area. On seeing him, out of the said motorcyclists, one

motorcyclist fired shot by aiming towards him with intention to kill. He hurriedly went inside house and saved himself. Upon this, all the other family members also attracted to spot. All the three un-identified motorcyclists managed to fled away from the spot. Instant case under Section **307,506,386,511,34 IPC** and Section **25/27/54/59 of Arms Act**, was got registered.

On **13.01.2023**, arrest of *Gurpiar Singh alias Jhanda son of Chand Singh, resident of Talwandi Bhangoria, District Moga* was effected, who suffered disclosure statement during interrogation on 16.01.2023 that, he alongwith **Malkiat Singh alias Manna son of Jagsir Singh resident of Shaheed Bhaat Singh Nagar, Kucha Doshanjh Road, Moga** and **Sandeep Singh alias Seepa son of Ramesh Chand, resident of Village Dosanjh, District Moga**, went in front of house of complainant on motorcycles and, opened firing at Parminder Singh Chauhan at instances of Arshdeep Singh alias Daala son of Charanjit Singh, resident of Canada and Jackpal alias Lally son of Krishandeep Singh, resident of Kothe Patti, Moga who hired them in order to fire shots at house of Parminder Singh Chauhan and, in lieu of that, they also sent money to them. Thus, vide **DDR No.25 dated 16.01.2023 Malkiat Singh (applicant/accused)** and **Sandeep Singh alias Seepa (co-accused/non-applicant)** were nominated as accused. As Malkiat

Singh alias Manna and Sandeep Singh alias Seepa were already in judicial lock up in other cases, thus in pursuance of production warrants, their arrest was effected. Thereafter, vide rapat **No.23 dated 16.02.2023**, *Jackpal alias Lally* and *Arshdeep Singh alias Daala* both were nominated as accused in the present case. The revolver used by the accused was already recovered in case bearing *FIR No.5 dated 13.01.2023 under Section 307,353,186 IPC and 25/54/59 of Arms Act, Police Station Talwandi Bhai*. After collecting empty cartridges from the place of occurrence in the present case, when revolver .38 bore alongwith empty cartridges was sent to the office of FSL, Mohali, on analysis, same was found similar. As, illegal weapon was used, thus, offence under Section 27/54 of Arms Act was deleted and offence under Section 25/54/59 of Arms Act was added subsequently.

6. After having considering rival submissions put forth by counsel for both the parties, since the allegations for making extortion call to extort money and thereafter, on refusal, in the midnight, firing of shots at the gate of house of complainant, with an intention to kill, at instances of Arshdeep Singh Daala and Jackpal alias Lally (co-accused/non-applicants) who are staying abroad, are of serious in nature thus, keeping in view the gravity of offence, no ground is made out warranting concession of bail in favour of applicant/accused

Malkit Singh under section 439 Cr.P.C. Thus, bail application stands **dismissed**. Bail application papers be tagged with the main challan. However, these observation of mine shall have no effect on the merits of the case.

Pronounced in the Open Court.

Dated: 05.07.2023

Manoj Kumar
Stenographer Gr.I

(Rajwinder Kaur)
Addl. Sessions Judge,
(Fast Track Court, exclusively
dealing with rape cases) Ferozepur
UID No. PB0121.