

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

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**CRM-M-9263-2022
Date of decision: 08.08.2022**

RAJ KUMAR ALIAS RAJA ALIAS RAJA PAHARIA

....Petitioner

Versus

STATE OF PUNJAB

...Respondent

CORAM: HON'BLE MR. JUSTICE VINOD S. BHARDWAJ

Present : Mr. Umesh Aggarwal, Advocate
for the petitioner.

Ms. Amarjit Kaur Khurana, DAG, Punjab.

VINOD S. BHARDWAJ. J. (ORAL)

1. The present petition has been filed under Section 439 of the Code of Criminal Procedure, 1973 for grant of regular bail to the petitioner in case bearing FIR No.90 dated 12.07.2017 registered under Sections 365, 368, 323, 506, 148 & 149 of the Indian Penal Code, 1860 and Section 25 of the Arms Act, 1959 and Section 307, 323, 120-B of the IPC and Section 54 of the Arms Act and Section 66 E and 67 of the Information Technology Act, 2000 was added later on at Police Station Division No.6, District Jalandhar (Annexure P-1).

2. That the FIR in this case was registered on the statement of Beant Singh, who said that about 1½ years back, he had spoken to one girl Manisha Sharma, through video call, on mobile. Thereafter, he never spoke with her again. However, she used to call him on his phone and told him that she has been doing nursing course at Dehradun. Her

examinations are over and she will be reaching on 08.07.2017 at 04:00 P.M. at bus stand, Jalandhar. She has no brother and sister, so she requested him to pick her from the bus stand, Jalandhar. Then, he arrived at bus stand, Jalandhar in his Verna car, where he was asked to come by Manisha, on her phone. She told him that the bus will reach at the bus stand around 11/11:30 P.M. so, she asked him to pick her up from Gurudwara Singh Sabha, Model Town. When he reached the said place, where, there was no one there. However, she asked him to wait for her, till she again made a call. When, he went to get a bottle of water from a juice shop, then in Alto car No. PB-08-DM-1461 four persons came in the age group of 20 -25 years. They forcibly made him sit in the said Alto car and after removing the keys of his car, they took him to an unknown place by folding his eyes. They took him near seepage drain. When they reached at an abandoned place, away from the city, they removed cloth from his eyes and started beating him. They prepared his video, by removing his clothes and made him talk through video conference with Preet Phagwara alias Raja Phahria (petitioner herein).

3. Learned counsel appearing on behalf of the petitioner contends that the petitioner has been in custody since 28.01.2019 and has already undergone an actual custody of almost 03 and half years. It is contended that even though 05 witnesses have been examined out of a total of 22 witnesses, however, the case is now fixed for filing of a supplementary challan and that the evidence is likely to commence again. He further contends that the only attribution against the petitioner is that after the victim had been kidnapped and given

beatings, a video call was made to the petitioner and that the petitioner had compelled the complainant to hurl abuses against the some gangsters. Reference is made to the affidavit of the Investigating Officer dated 08.08.2022 to supplement the aforesaid submission. The relevant part of the said affidavit is extracted as under:

“30. Role of the petitioner:-

*That complainant has specifically stated that the place where they had taken him and beaten him, there was a cattle shelter where animals were tied, it had a collar and had a fodder crushing machine. At this place they stripped him naked and made a video on there mobiles of giving him beatings and from there mobile phones them made him talk to preetphagwara and **Raja pahadiya i.e. petitioner** through video call and asked him to abuse sheraKhuban group and Gonder Group and they called around 8-10 unknown persons there, out of which he know one person namely panchamnoor who all were involved in beating him and were many wounds on his body as such there are specific allegations against the petitioner.*

31. That the challan in the present case has already been presented against Vishal Sharma, Maniksha Sharma, Vishal sachin, Rajnish kumar @ preetphagwara and Raj kumar@ raja pahadia and charges have already been framed against them and till date 5 prosecution witnesses have been examined and three prosecution witnesses have been given up by prosecution and now the trial is pending against them for 22.08.2022.”

4. He thus contends that even as per the case of the prosecution, the petitioner did not cause any actual injury and may at best he is involved as a co-conspirator in the said aspect.

5. Learned counsel appearing on behalf of the respondent-

State however contends that the petitioner has criminal antecedents and that he is involved in various others similar cases. It is however not disputed that insofar as the present case is concerned, the only attribution against the petitioner is as already noticed and extracted above. It is also not disputed that the petitioner has already undergone an actual custody of nearly 03 and half years in the present case and that the evidence is likely to commence all over again.

6. Mere involvement of an accused in other cases cannot be a ground to prolong the incarceration of an accused for an indefinite period. His involvement and participation in a particular case is also required to be taken into consideration.

7. In any case, insofar as the other cases are concerned, learned counsel appearing on behalf of the petitioner has submitted that as per his information, the petitioner has already been granted concession of bail in all the said cases.

8. I have heard learned counsel appearing on behalf of the respective parties and have gone through the record with their assistance.

9. Be that as it may, without going the said controversy and taken in consideration, the period of custody already undergone by the petitioner and also the stage of trial and the fact that the other co-accused have already been granted concession of regular bail by this Court vide order dated 11.04.2019 passed in CRM-M-6508-2019 titled "*Vishal Sharma @ Jaggi Roopar versus State of Punjab*" and CRM-M-28386-2018 titled "*Pancham @ Panchamnoor Singh versus State of Punjab*"

10. The instant petition is allowed and the petitioner is ordered to be released on bail on his furnishing requisite bail bond/surety bond to the satisfaction of the Trial Court/Duty Magistrate, concerned.

11. It is made clear that the petitioner shall not extend any threat and shall not influence any prosecution witnesses in any manner directly or indirectly.

12. The observation made hereinabove shall not be construed as an expression on the merits of the case and the trial Court shall decide the case on the basis of available material.

The petition is allowed.

(VINOD S. BHARDWAJ)
JUDGE

AUGUST 08, 2022
vishal sharma

<i>Whether speaking/reasoned</i>	:	<i>Yes/No</i>
<i>Whether reportable</i>	:	<i>Yes/No</i>