

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

CRM-M No.6415 of 2014 (O&M).

Date of Decision: April 27, 2015.

Amandeep Singh @ Assa

....Petitioner.

VERSUS

State of Punjab

....Respondent.

CORAM: HON'BLE MRS. JUSTICE SNEH PRASHAR.

Present: Mr. Anmol Rattan Sidhu, Sr. Advocate
with Mr. Pratham Sethi, Advocate for the petitioner.

Mr. A.S. Klar, Assistant Advocate General, Punjab.

Mr. Akashdeep Singh, Advocate for the complainant.

SNEH PRASHAR, J.

The present petition has been filed under Section 439 of the Code of Criminal Procedure (Cr.P.C.) for grant of concession of regular bail to the petitioner in case First Information Report No.229 dated 21.09.2010 under Sections 307, 427, 148, 149 and 120-B of the Indian Penal Code (in short, "I.P.C.") and Section 25/27/54/59 of the Arms Act, 1959 registered at Police Station Sarabha Nagar, Ludhiana.

2. The submissions made by learned counsel representing the petitioner and learned counsel representing the State of Punjab have been

considered.

3. It was submitted on behalf of the petitioner that he is in custody since 27.08.2012. All accused in the case except him are on bail. It was pointed out that on the last date of hearing this Court had ordered for recording of cross-examination of the complainant on 30.03.2015. Neither on the said date nor on the next date fixed for evidence i.e. 21.04.2015 the witness was examined by the prosecution. Learned counsel also urged that in the First Information Report the allegation of the complainant was that the petitioner was armed with a .12 bore rifle from which he had fired. Another accused named Avtar Singh was said to be armed with a pistol. Among the other accused Jagdish Singh son of Joginder Singh, Sukhdev, Bhupinder Singh @ Bhalla, Kuldeep Singh @ Bhappa, who were all alleged to be having fire arms. However, after investigation, some persons named were found to be innocent and the remaining, who were challaned have since been enlarged on regular bail. Submitting that the trial is still likely to take some time and there is no ground for detaining the petitioner in custody, learned counsel prayed for his release on regular bail.

4. Opposing the petition, it was submitted by learned State counsel and learned counsel appearing for the complainant that there are eight other criminal cases pending against the petitioner. Subsequent to the occurrence in question, the petitioner had again fired on the complainant on which First Information Report No.67 of 2012 under Sections 307, 148 and 149 I.P.C. and section 25/54/59 Arms Act was registered.

5. Learned counsel for the petitioner submitted that in all other

cases registered against the petitioner including First Information Report No.67 of 2012 which was registered on the statement of the complainant subsequent to the occurrence in question, the petitioner is on bail.

6. On 15.12.2014, when the case before learned trial court was fixed for 02.01.2015, the application of the petitioner for bail was adjourned to 23.01.2015 directing the prosecution to produce all the material witnesses so that their testimony could be recorded. Subsequent to that the matter was again posted to 16.02.2015, 09.03.2015 and 17.03.2015 for recording statements/ cross-examination of the witnesses of the prosecution, but as submitted by learned counsel for the complainant, though examination in chief of the witnesses have been recorded, their cross-examination has not been recorded so far. The order of learned trial court dated 30.03.2015 has not been produced but the copy of the order dated 21.04.2015 shown by counsel for the complainant during arguments, indicates that while one of the accused had sought exemption, the three material witnesses of the prosecution, whose cross-examination was to be recorded, did not appear in the court despite service and they were ordered to be summoned through bailable warrants. It is after the case was adjourned that the witnesses appeared and got their presence recorded. Apparently, the delay in recording the statements of the witnesses cannot be attributed to the petitioner, who is in custody since 27.08.2012.

7. Thus, without going into the merits of the case and least any expression which may prejudice the case on either side and considering the fact that all other co-accused of the petitioner, against whom there are

identical allegations, are on bail, this petition is allowed and the petitioner is ordered to be released on bail, subject to his furnishing personal bond and two local sureties to the satisfaction of learned trial Court.

(SNEH PRASHAR)
JUDGE

April 27, 2015
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