

IN THE HIGH COURT OF PUNJAB AND HARYANA

AT CHANDIGARH

Criminal Misc. No. M-28807 of 2016

Date of Decision: 20.09.2016

Gurdev Singh

...Petitioner(s)

Versus

State of Punjab

...Respondent(s)

CORAM:- HON'BLE MR. JUSTICE HARI PAL VERMA

Present:- Mr. Puran Singh Hundal, Sr. Advocate with
Mr. Dinesh Trehan, Advocate
for the petitioner.

Mr. Gurinderjit Singh, DAG, Punjab.

Mr. Vikas Gupta, Advocate
for the complainant.

HARI PAL VERMA J.(Oral)

Prayer in the present petition filed under Section 439 of the Code of Criminal Procedure, 1973 is for grant of regular bail to the petitioner in case FIR No.43 dated 15.3.2013 under Sections 302, 307, 148, 149 of the Indian Penal Code, 1860 and Sections 25 and 27 of the Arms Act, 1959 registered at Police Station Bhikhiwind, District Tarn Taran.

Learned senior counsel appearing on behalf of the petitioner submits that in the aforesaid FIR, the police has found the petitioner innocent during the investigation and it is only on the basis of application filed under Section 319 CrPC, the trial Court has summoned the

petitioner, as an additional accused. Moreover, PW-8 Stalinjeet Singh, who has appeared as prosecution witnesses, has not attributed any injury to the petitioner. He further submits that the petitioner is in custody since 10.8.2015 and the trial will take sufficiently long time, as only 9 witnesses out of the 33 cited witnesses have been examined by the prosecution so far.

On the other hand, learned counsel for the complainant though does not dispute the fact that the petitioner has been summoned on filing of an application under Section 319 CrPC, but he submits that PO proceedings were also initiated against the petitioner and consequent thereupon, he was declared as proclaimed offender on 28.7.2015 and it is only, thereafter, the petitioner has surrendered before the trial Court on 10.8.2015. He further submits that apart from the fact that the petitioner was a member of unlawful assembly, there is specific attribution against him.

Learned State counsel has also supported the arguments raised on behalf of the complainant. He further submits that apart from the specific injuries, gunshot injury has also been attributed to the petitioner.

I have heard learned counsel for the parties.

There is no dispute that during investigation, the petitioner was found innocent and it is only after filing of application under Section 319 CrPC, he has been summoned to face trial. This Court in CRM-M-720-2015 **Jarnail Singh v. State of Punjab** decided on 20.2.2015 has admitted the co-accused of the petitioner namely Jarnail Singh on bail. In that case also, the petitioner-therein was found innocent by the police and it is only after filing of application 319 CrPC, the petitioner-therein was summoned to face trial, as additional accused. Therefore, considering the

fact that PW-8 Stalinjeet Singh, who has appeared as prosecution witnesses, has not attributed any injury to the petitioner and as against the total 33 witnesses cited by the prosecution, only 9 witnesses have been examined so far and the trial will take sufficiently long time, this Court deems it appropriate to grant regular bail to the petitioner.

Accordingly, the present petition is allowed and the petitioner is admitted on regular bail subject to his furnishing of bail bonds/surety bonds to the satisfaction of the trial Court.

Needless to mention that the petitioner shall not hamper the proceedings in the case and shall not temper with the evidence in any manner.

It is made clear that expression made hereinabove shall not be construed as any opinion on the merits of the case.

September 20, 2016
AK

(HARI PAL VERMA)
JUDGE

Whether speaking / reasoned?

Yes / No

Whether reportable?

Yes / No