

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

Criminal Misc. No.M-34920 of 2015

Date of Decision: February 17, 2016

Ram Avtar son of Shri Parhlad SinghPetitioner

Versus

State of HaryanaRespondent

CORAM:- HON'BLE MR.JUSTICE TEJINDER SINGH DHINDSA

Present: Mr.GPS Bal, Advocate for the petitioner.

Mr.Vivek Saini, Deputy Advocate General, Haryana.

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TEJINDER SINGH DHINDSA, J.

Petitioner seeks benefit of regular bail pending trial in case FIR No.428 dated 18.11.2014 registered at Police Station Barwala, under Sections 107, 147, 148, 149, 186, 188, 120-B, 121, 121-A, 122, 123, 224, 225, 307, 332, 342, 353, 436 of the Indian Penal Code and Sections 25, 54, 59 of the Arms Act, Police Station Barwala, District Hisar, later altered by investigation as Sections 114, 147, 148, 149, 186, 188, 120-B, 121, 121A, 122, 123, 307, 332, 342, 353, 420, 435, 333, 326A of the Indian Penal Code and Sections 25, 27, 30 of the Arms Act, Sections 3/4/7 of Explosive Substance Act, Sections 3/4 PDPP Act and Sections 16, 18, 20, 22-C, 23 of the Unlawful Activity (Prevention) Act, 1967.

2. It may be briefly noticed that FIR in question came to be registered on the statement of Anil Kumar, Inspector.

Allegations relate to an occurrence dated 18.11.2014. It was stated that for execution of the arrest warrants issued by this Court against Ram Pal, self-styled Guru, a police party was present at a distance of about 400 mtrs. from Sat Lok Ashram. Ram Pal is stated to have managed 600/700 ladies and children squatting on the main gate of the Ashram. About 1500/2000 young boys armed with lathis and dandas and also carrying fire-arms were on the roof of the Ashram. The police party with the aid of loud speakers announced that the High Court had issued arrest warrants and no person should obstruct in execution of the same. Allegations are that Raj Kumar, Raj Kapoor, Mahinder, Purshotam Dass, Dharambir Danda, Tarun Kumar and Deep Dass had provided petrol and diesel Cans to several persons to sit on the main gate so as to prevent the police party from entering the Ashram premises. Allegations in a nut-shell are that Ram Pal with the aid of his supporters had virtually formed a human shield to prevent the police party from gaining entry. When the police personnel tried to make an entry, stones were pelted and bullets were also fired on the police party. Petrol bombs were thrown and even a JCB machine was put on fire. A number of police officials are stated to have suffered injuries and even police vehicles were damaged.

3. The present petitioner is stated to have been arrested on the spot on 18.11.2014. Prosecution version is that the petitioner is one of the main conspirators in the case and even a gun was recovered from the spot.

4. Learned counsel appearing for the petitioner would

place heavy reliance upon documents/material placed on record at Annexures P1 to P4 i.e. information procured under the Right to Information Act, a CD provided by National Highway Authority of India (NHAI), Nilokheri Toll Plaza, a CD provided by Delhi Police, CD of live TV telecast dated 18.11.2014 to contend that the petitioner was not even present on 18.11.2014 in Barwala, Hisar where Sat Lok Ashram is situated. It is the assertion of the counsel that the place of arrest of the petitioner was, in fact, Gurgaon and the Investigating Agency has obtained the signatures of the petitioner on some blank papers and converted the same into a disclosure statement dated 20.11.2014 and the alleged disclosure is in the following terms:

“Today, in presence of following witnesses, said Ramavtar disclosed under police custody, without any fear that I had got a country made pistol from Dera of Baba, with which I fired on police. When it started rampage, I concealed the same under earth near the poll standing with north wall, which I can get recovered by way of demarcation. His disclosure statement recorded.”

5. He further contended that since there was no country made pistol in the possession of the petitioner, the Investigating Agency has fabricated a second disclosure statement of the petitioner on 22.11.2014, wherein it has been shown that the petitioner was having a DBBL licensed gun with him and which was used for firing on 18.11.2014 at Barwala, Hisar. It is submitted that report of the ballistic expert having been received

on 3.8.2015 would clearly establish that the DBBL licensed gun of the petitioner was not even used in the occurrence. Further submission is that no explosives have been found/recovered from the petitioner and hence provisions of the Explosive Act qua the petitioner could not have been invoked under any circumstance.

6. In the considered view of this Court, the plea of false implication and *alibi* as regards petitioner not being present at Sat Lok Ashram Barwala, Hisar would be issues to be considered by the trial Court upon due appreciation of evidence. Be that as it may, this Court cannot proceed oblivious of the fact that the petitioner has been in custody since 18.11.2014. It is not the case made out on behalf of the State that the petitioner carries questionable antecedents. Rather petitioner is stated to be a Lawyer having been enrolled as an Advocate with the Punjab and Haryana Bar Council vide enrolment No.P-440-2013.

7. State counsel has apprised the Court that challan was presented on 16.2.2015 but even thereafter, prosecution has informed the trial Court that further investigation is being carried out and a supplementary challan is to be filed. A total of 390 prosecution witnesses have already been cited. Matter is now stated to be fixed for 14.3.2016 for framing of charges. The trial, as such, would take time to conclude.

8. Even though the charges against the petitioner are serious in nature, yet keeping in view the contentions raised by learned counsel for the petitioner and coupled with the length of incarceration already suffered i.e. in excess of 15 months and without making any observations on merit, he is held entitled to

the benefit of bail. Petition is allowed. Petitioner be enlarged on bail to the satisfaction of Chief Judicial Magistrate/Duty Magistrate, Hisar.

9. Liberty is granted to the State to move an application seeking cancellation of bail if it is found that the petitioner at any point of time makes an attempt to intimidate/induce or influence and tamper with the evidence/witnesses.

10. Disposed of.

February 17, 2016

SRM

(TEJINDER SINGH DHINDSA)
JUDGE

Note: Whether referred to Reporter? (Yes/No)