

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

CRM No.M-35721 of 2015

Date of decision:- May 11, 2016

Gurpreet Singh @ Lamber

.....Petitioner...

Vs.

State of Punjab

....Respondent...

CORAM:- HON'BLE MR. JUSTICE JASPAL SINGH

Present:- Mr. R.S. Rai, Sr. Advocate with
Mr. Deepinder Brar, Advocate,
for the petitioner.

Mr. A.S. Kler, DAG, Punjab.

Mr. Navjeet Singh, Advocate,
for the complainant.

1. Whether Reporters of local papers may be allowed to see the judgment?
2. To be referred to the Reporters or not?
3. Whether the judgment should be reported in the Digest?

JASPAL SINGH, J. (Oral)

This is a petition under Section 439 of the Code of Criminal Procedure preferred by Gurpreet Singh @ Lamber seeking bail in case FIR No. 18, dated 20.01.2010, under Sections 302, 307, 506, 148, 149 IPC and Section 25 of the Arms Act, 1959, Police Station Sector City Jagraon, District Ludhiana, during the pendency of trial.

2. Briefly stated, the facts necessary for the disposal of the instant petition are that Harmanjit Singh son of Jaswinder Singh, r/o House No. 1860/8, Village Agwar near Chungi, Jagraon

approached the police on 20.01.2010 and got registered the FIR in question, which is reproduced as under:-

“Statement of Harmanjit Singh son of Jaswinder Singh resident of House No.1860/8, Village Agwar near Chungi, Jagraon aged 25 years. State that I am resident of above said address and I run Grewal Finance near Chungi, Jagraon. Today, I alongwith Charanjit Singh alias Guron and his father Gurdeep Singh resident of Village Bujgar, Inderjit Singh son of Karnail Singh, caste Mazbi, resident of Kotha, Khanjura Jagraon, Baldeep Singh son of gurdarshan Singh Jat, resident of Gulabi Bagh Jagraon and Gurvinder Singh, Satnam Singh resident of Panjra Road, Jagraon. Due to some work were coming toward Bus Stand Jagraon near the Halwai Shop. It was around 10 p.m. When a white colour Alto and Scorpio car came close to us. From the car Gupreet Singh son of Prithvi SinghJat resident of Selampur, Sidhwan Bet who has .12 bore gun, Jaspinder Singh @ Malli son of Zorawar Singh resident of Sherpur Road, Jagraon, who had .12 bore gun, Gurpreet Singh @ Deepa son of Harbans Singh resident of Gurushah Kaunke, Gurpreet Singh alias Gopi son of Kuldeep Singh resident of Kothe Sher Jang, Satinder Pal @ Nikku son of Jarnail Singh near Chungi No.1 and Charanjit Singh son of Gurjeet Singh who had a country made pistol in his hand got done from the car and immediately on getting done, Jaspinder Singh raised a Lalkara not to leave anyone and Gurpreet Singh @ Lamber with his .12 bore gun fired at Hargunjeet Singh which hit him in his head. Jaspinder Singh with his gun fired at Inderjit Singh which hit him on his back and because of the shot

both fell down and in order to save our lives, we got on the side and all of them along with unidentified persons in the car drove towards Moga road. People gathered at the spot and we in the ambulance took Hargunjit Singh and Inderjit Singh to the Civil Hospital, Jagraon. Where Hargunjit was declared dead on arrival and Inderjit Singh was given First aid and referred to DMC Ludhiana. After the incident on my Mobile No. 9888100751 Gurpreet @ Lamber started threatening me that we had to kill you but you got saved and will kill you at your house. The reason is the college presidential election in 2009 because of which they attacked us. I along with my accomplice was about to report that you met us at the gate of Civil Hospital. State is given and is correct. Legal action be taken. HC Kuldeep Singh, HC Nirmal Singh, HC Jaswant Singh 227. Jasjeet Singh 120, driver Rakesh Kumar. Place Silsila were patrolling on GT Road the report was given and reached the gate of Civil Hospital and met Harsimranjit Singh. Statement was read and recorded and signed in English. I certify the same. From the statement recorded offence under Sections 302, 307, 506, 148, 149 IPC and 25 of the Arms Act, 1959 is found. Statement is sent to Paramjit Singh to register a case. PCR be informed by wireless. Special report be prepared and sent. Sd/- Paramjit Singh SHO, PS City Jagraon, 20.01.2010 Civil Hospital, Jagraon at 12 p.m. case be registered entry made in record. Special report sent by Gurdial Singh 125 City PS to officers and Illaqa Magistrate. FIR copy be sent to control room and intimated through wireless. Report No. 13 at 2.20 pm.”

3. The contention of learned counsel for the petitioner Mr. R.S. Rai, Sr. counsel with Mr. Deepinder Brar is that after the completion of investigation, challan in this case was presented in the Court of Id. Jurisdictional Magistrate on 27.04.2010 but till date even after an expiry of more than 6 years only three witnesses have been examined out of 20 as is depicted in the list annexed with the report. Not only this, thereafter, an application under Section 319 Cr.P.C. has been moved by the prosecution to summon some additional accused to stand trial, which is still pending disposal. The petitioner is suffering incarceration since the date of his arrest i.e. 31.03.2010. Further, the contention of learned counsel for the petitioner is that even if, for the sake of arguments, petitioner is convicted for the commission of an offence under Section 302 IPC for a period of imprisonment to life, after the expiry of a period 5 years of his sentence, he would have been entitled for bail in view of the pronouncement of the Division Bench of this Court delivered in case ***“Dharam Pal vs. State of Haryana”, 1999 (4) RCR (Criminal) 600.*** Otherwise also, he is ready to cooperate with the trial and undertakes not to leave the country without the prior permission of this Court.

4. On the other hand, learned State counsel assisted by Mr. Navjeet Singh, Advocate for the complainant has submitted that there is no delay on the part of the prosecution as after the presentation of challan, one after the other accused is slipping away from the proceedings, as a result of which, the witnesses could not be examined. Even, the charge in this case could not be framed approximately for a period of two years due to this reason. Ultimately,

it was framed on 25.10.2012. Even, thereafter, accused, who are facing the trial except the petitioner (who is in custody) are not cooperating with the trial. Moreover, large number of other cases are pending against the petitioner, details of which have already been furnished. In the given circumstances, the petitioner does not deserve the concession of bail.

5. This court has given an anxious thought to the rival submissions made by learned counsel for the parties and have perused the record available.

6. Undeniably, petitioner is suffering incarceration since the date of his arrest i.e. 31.03.2010. As far as, the registration of other cases against the petitioner is concerned, there is no dispute about the same but the status of the cases reveals that in most of the cases, he has already been acquitted and in some cases, cancellation report has been furnished. At present, as per the report submitted by the Id. State counsel, two cases are pending disposal qua him bearing FIR No. 54, dated 04.06.2011, under Sections 307, 452, 506, 148, 149 IPC and 25 of the Arms Act and FIR No. 198, dated 23.06.2014 under Sections 325, 353, 323, 186, 148 and 149 IPC, in which, he is already on bail. The progress of trial is also at a snail's pace as only 3 witnesses have been examined till date out of 20. Though, the delay cannot be attributed solely on the part of the prosecution but at the same time, a person who is in jail for the last more than 6 years has also no fault.

7. Taking into consideration the aforesaid aspect but without expressing any opinion on the merits of the case, petition is allowed

and petitioner is ordered to be released on bail, during pendency of trial, subject to his furnishing requisite bail bonds, at the satisfaction of trial court/Duty Magistrate.

May 11, 2016

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**(JASPAL SINGH)
JUDGE**