

IN THE HIGH COURT FOR THE STATES OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-10572 of 2017 (O&M)

Date of Decision: July 28, 2017

Amarjit Singh

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE AMOL RATTAN SINGH

Present:- Mr. J.S. Lalli, Advocate, for the petitioner.

Mr. Sandeep Mann, AAG, Punjab.

Mr. Prateek Pandit, Advocate, for respondents no.2 and 3.

Amol Rattan Singh, J. (Oral)

By this petition, cancellation of the bail granted to respondents no.2 and 3, i.e. Jagjit Singh @ Jagga and Avtar Singh @ Raja, is sought by the complainant in FIR no.32 dated 24.03.2014, registered for the alleged commission of offences punishable under Sections 302, 307, 324, 148 and 149 IPC, at Police Station Sadar Kapurthala, District Kapurthala.

While granting bail to the said respondents on 23.02.2017, it was noticed that the contention of the learned counsel then appearing for respondents no.2 and 3 (petitioners in that petition), was to the effect that the trial had continued for a long time with the petitioners therein (hereinafter referred to be as “respondents no.2 and 3”) having been in custody for 2 years and 11 months at that stage, the trial dragging on for the reason (as given by the learned counsel), that an application had been filed under Section 319 Cr.P.C in the cross case filed against the present

petitioner, Amarjit Singh, due to which the present petitioner or his co-accused were not appearing, for fear of arrest.

Learned counsel for the petitioner submits that the said statement made by learned counsel at that stage was wholly incorrect as the order passed by the trial Court on 14.02.2017, a copy of which is Annexure P-8, shows that the co-accused of the petitioner in the cross-case were Tarsem Singh, Jasvir Singh, Harjinder Singh, Boota Singh, Nav Jeevan Singh @ Jeevan Singh. (That being one of the two orders referred to by the learned counsel for respondents no.2 and 3 herein while appearing for them as petitioners in that petition).

In response thereto, learned counsel now appearing for respondents no.2 and 3, submits that the statement made before this Court on 23.02.2017 was due to a bona fide error on the part of the counsel, because of the cross case pending against the petitioner and his co-accused, and therefore, the orders passed in the two cases got mixed up, leading to the aforesaid statement. However, on merits it is contended that the fact remains that the trial is still at a stage where only 6 out of 16 prosecution witnesses have been examined, with the trial having commenced in the year 2015, after the report under Section 173 Cr.P.C. was submitted.

It is further contended that the defence of the present respondents no.2 and 3 and their co-accused is that they were actually acting in self-defence, the present petitioner being the aggressor. (Accused in the cross-case, in which the prime offence alleged to have been committed is punishable under Section 307 IPC).

Though learned counsel for the present petitioner naturally refutes that contention and submits that the very fact that one of those on the side of the petitioner died on the spot, would show that it was actually respondents no.2 and 3 and their co-accused who were the aggressors, however, in my opinion, that being a matter of doubt at this stage, which would obviously be gone into by the trial Court while considering the evidence before it in both cases on merits, I see no reason to cancel the bail already granted to respondents no.2 and 3, even though the bail application filed by another co-accused of theirs, Balwinder Singh, has been dismissed today, Balwinder Singh being the person who had delivered the fatal blow to deceased Kuldeep Singh in the chest.

It is made absolutely clear that nothing stated herein afore by this Court, or in its previous orders granting or refusing bail to any of the accused, either in the cross case or in the main FIR, would be taken by the trial Court to be a comment on the merits of the case, while appraising the evidence led in each case.

Obviously, the trial Court would proceed as per the merits of such evidence led.

The trial being pending for a long time, it is directed that the trial Court would make strenuous efforts to dispose of it of at the very earliest.

July 28, 2017
vcgarg

(**Amol Rattan Singh**)
Judge

Whether speaking/reasoned: Yes
Whether reportable: Yes