

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

**CRM No.M-33273 of 2017
Decided on: 14.09.2017**

Davinder Singh and another

....Petitioners

Versus

State of Punjab

....Respondent

CORAM: HON'BLE MR JUSTICE ARVIND SINGH SANGWAN

Present : Mr. S.P.S. Sidhu, Advocate for the petitioners.

Mr. K.S. Sidhu, DAG, Punjab.

ARVIND SINGH SANGWAN, J. (Oral)

The petitioners pray for grant of regular bail under Section 439 of the Code of Criminal Procedure (in short 'Cr.P.C.') in FIR No.7 dated 14.01.2016, for offence punishable under Sections 148, 149, 449, 302 read with Section 34 of the Indian Penal Code, 1860 (in short 'IPC') and 27 of the Arms Act registered in Police Station Harike, District Tarn Taran.

Counsel for the petitioners has submitted that at the time when the bail application of the present petitioners was rejected by the trial Court vide order dated 15.05.2017, the statement of 02 witnesses i.e. Baltej Singh and Jagpreet Singh was not recorded. Thereafter, statement of both these witnesses have been recorded. A copy of the statements of Baltej Singh and Jagpreet Singh is attached with the petition as Annexure P1 (Colly.) and they have not supported the prosecution version. Counsel for the petitioners has further submitted that bail of co-accused, Gurpratap Singh and others was allowed by this Court vide order dated 31.08.2017 passed in CRM-M No.31125 of

2017. The operative part of the said order reads as under:-

“It is submitted on behalf of the petitioners that as per FIR, petitioner No.2-Pritam Singh was allegedly armed with .32 bore pistol and petitioner No.1-Gurpartap Singh was allegedly armed with a Kirpan. It is further alleged in the FIR that a lalkara was raised by Kuldip Kaur and Manna provoked Bohar Singh to fire a shot at Gursewak Singh, which proved to be fatal injury. Similarly, Dilbag Singh, co-accused fired shot with his .12 bore gun at Jasbir Singh, which hit on the different parts of his body and the remaining persons are also stated firing shots. It is, thus, submitted that no specific injury is attributed to the petitioners. Learned counsel for the petitioners further submits that co-accused i.e. Jagir Singh has been granted concession of regular bail vide order dated 20.02.2017 passed in CRM-M-44573 of 2016 and co-accused Nirmal Singh @ Nimma @ Balwinder Singh have been granted concession of regular bail, vide order dated 21.03.2017 passed in CRM-M-8474 of 2017. It is also submitted that during the course of trial, all the material prosecution witness has been examined and they have not supported the prosecution version. Counsel for the petitioners has relied upon the statement of PW1-Mahavir Singh, PW2- Jasbir Singh and PW3-Baltej Singh, PW-4 Jagpreet Singh, statements are attached as Annexure P-1, collectively.

On the other hand, the learned State counsel, on instructions from ASI Lakhbir Singh, has not disputed the fact that eye-witnesses have not supported the prosecution version.

Without commenting on the merits of the case, the present petition is allowed. Petitioners be enlarged on regular bail subject to their furnishing bail / surety bonds to the satisfaction of the trial Court/Chief Judicial

Magistrate, Tarn Taran.”

It is also submitted that the other co-accused, Jagir Singh and Nirmal Singh have also been granted the benefit of regular bail vide order dated 20.02.2017 passed in CRM-M No.44573 of 2016.

Counsel for the State, on instructions from ASI Hardial Singh, has not disputed the factual position that the eyewitnesses have not supported the prosecution version including the abovementioned witnesses i.e. Baltej Singh and Jagpreet Singh whose statements have also been recorded by the trial Court after dismissing the bail application of the petitioners vide order dated 15.05.2017.

Without meaning to express any opinion on merits of the case, the petition is allowed and the petitioners are ordered to be released on bail subject to their furnishing bail bonds to the satisfaction of the trial Court. However, it will be open for the prosecution to apply for cancellation of bail, if the petitioners are found involved misusing the concession of bail, in any manner.

14.09.2017
yakub

(ARVIND SINGH SANGWAN)
JUDGE

Whether speaking/reasoned:	Yes/No
Whether reportable:	Yes/No