

CRM-M No.42666 of 2016 (O&M)

::1::

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

**CRM-M No.42666 of 2016 (O&M)
Date of Decision : 20.02.2017**

Harmanpreet Singh

..... Petitioner

Versus

State of Punjab

..... Respondent

CORAM : HON'BLE MR. JUSTICE AJAY TEWARI

Present : Mr. S.S.Goraya, Advocate for the petitioner.

Ms. Jasleen Kaur Sidhu, AAG, Punjab.

Mr. Vipin Mahajan, Advocate for the complainant.

AJAY TEWARI, J. (Oral)

On 30.11.2016 the following order was passed :-

“This petition has been filed under Section 438 Cr.P.C. for grant of anticipatory bail to the petitioner in case FIR No.25 dated 01.05.2015, registered under Sections 302, 148, 149, 221 IPC, at Police Station Fatehgarh Churian, District Batala.

On 20.10.2016 the following order was passed in CRM-M-37431-2016 i.e. the earlier petition filed by the petitioner:-

“This is a petition for grant of anticipatory bail to the petitioner under Section 438 Cr.P.C. in case

FIR No.25 dated 01.05.2015 registered under Sections 302/148/149/221 IPC at Police Station Fatehgarh Churian, District Batala.

Learned counsel states that the petitioner was regularly appearing in the Court and never misused the concession of bail and could not appear only on one day i.e. 27.09.2016 because of illness.

In the circumstances the petitioner is directed to appear before the trial Court on the next date and the Court is directed to release him on bail to its satisfaction in case the assertion that the petitioner has not misused the concession of bail previously and that his antecedents are clean, is correct.

Petition stands disposed of in the above terms.

Since the main case has been decided, the pending criminal miscellaneous application, if any, also stands disposed of.”

It is stated that the matter was fixed before the trial Court for 08.11.2016 but on 29.10.2016 the petitioner 'received gun-shot injuries' and is admitted in hospital and therefore could not surrender before the Court on the next date i.e. 08.11.2016.

Notice of motion.

On the asking of the Court, Mr. B.S. Thind, Assistant Advocate General, Punjab accepts notice on behalf of the respondent.

Learned counsel for the petitioner undertakes to

supply a copy of the paper book to the learned AAG during the course of the day.

Mr. Vipin Mahajan, Advocate has entered appearance on behalf of the complainant and states that actually as per the information received by the complainant the petitioner had broken into somebody's house on 29.11.2016 and was shot at by that person in the right of private defense and that is why the petitioner has not even lodged an FIR till date. Moreover one other accused namely Vishal @ Gagandeep had filed a petition bearing CRM-M No.18504 of 2016 which was decided on 27.07.2016 with the following order:-

“This petition has been filed under Section 439 Cr.P.C. for grant of regular bail to the petitioner in case F.I.R. No.25 dated 01.05.2015 registered under Sections 302/148/149/221 IPC, however, challan was submitted under Section 302/324/221/212/120-B/148/149 IPC and 25/54/59 of Arms Act at Police Station Fatehgarh Churian, Police District-Batala, District Gurdaspur.

Learned counsel for the petitioner states that the petitioner has now been in custody since May, 2015 and the only action attributed to him that he caught hold one of the witnesses.

Learned counsel for the complainant and learned Additional Advocate General have pointed out that this is a double murder case and it would be appropriate to put a time cap on the trial.

Learned Additional Advocate General, on instructions from ASI Gurdev Singh states that in case the petitioner does not obstruct the trial the prosecution will lead its entire evidence on or before 31.03.2017 and till such time the bail should not be granted to the petitioner.

I find this to be a fair submission. In the circumstances, in view of the undertaking given by the learned Additional Advocate General, it is directed that in case the prosecution does not lead its entire evidence on or before 31.03.2017 (subject to the petitioner not obstructing the same) the petitioner be released on bail to the satisfaction of the trial Court.

Petition stands disposed of in the above terms.

Since the main case has been decided, the pending criminal miscellaneous application, if any, also stands disposed of.”

Thereafter the accused persons have been delaying the trial because on one date one accused does not appear and on another dates other accused persons do not appear so as to ensure that the bail is granted to that person.

Learned counsel for the petitioner seeks a short adjournment to respond.

Adjourned to 08.12.2016.

In the meantime, arrest of the petitioner shall remain stayed.”

Today fresh status report by way of an affidavit of Sohan Singh, PPS, Deputy Superintendent of Police, Fatehgarh Churian, District Batala on behalf of respondent-State has been filed and the same is taken on record. Copy supplied to the counsel opposite.

As per the status report filed today it has been concluded by the prosecution that the two versions given by the petitioner as to how he had got shot do not appear to be correct. However, the police has not been able to ascertain what were the exact circumstances in which the petitioner was shot.

In the circumstances, I do not deem it appropriate to deny the prayer made by the petitioner in view of the fact that after the order of 08.12.2016 he is stated to be appearing regularly in Court.

In the circumstances, the interim order dated 08.12.2016 is made absolute subject to the conditions envisaged under Section 438 (2) Cr.P.C. However, as regards the contention of the learned counsel for the complainant that in this case the main accused who is in jail is seeking to get the benefit of the fact that different co-accused are not appearing on different dates, it would be open to the complainant or the prosecution to seek extension of the order limiting the prosecution evidence upto 31.03.2017.

CRM-M No.42666 of 2016 (O&M)

::6::

Petition stands disposed of.

Since the main case has been decided, the pending criminal miscellaneous application, if any, also stands disposed of.

20.02.2017

Pooja sharma-I

**(AJAY TEWARI)
JUDGE**

Whether speaking/reasoned

Yes/No

Whether Reportable :

Yes/No