

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

(1) **CRM-M-14175-2017**
Date of decision:-6.4.2018
Major Singh ...Petitioner

Versus

State of Punjab ...Respondent

(2) **CRM-M-27393-2017**
Jaswinder Kaur ...Petitioner

Versus

State of Punjab ...Respondent

(3) **CRM-M-30371-2017**
Manjot Singh alias Moti Pal ...Petitioner

Versus

State of Punjab ...Respondent

(4) **CRM-M-34633-2017**
Sandeep Kumar @ Kalu Shah ...Petitioner

Versus

State of Punjab ...Respondent

CORAM: HON'BLE MR.JUSTICE H.S. MADAAN

Present: Mr.Akhilesh Vyas, Advocate for the petitioner
in CRM-M-14175-2017.

Mr.Manish Prabhakar, Advocate
for the petitioner in CRM-M-27393-2017.

Mr.D.S. Pheruman, Advocate
for the petitioner in CRM-M-34633-2017.

Mr.Vipin Mahajan, Advocate
for the petitioner in CRM-M-30371-2017.

Mr.Ramandeep Sandhu, Sr.D.A.G., Punjab.

H.S. MADAAN, J.(ORAL)

By this order, I intend to dispose of four petitions i.e. **CRM-M-14175-2017** filed by petitioner Major Singh, **CRM-M-27393-2017** filed by petitioner Jaswinder Kaur, **CRM-M-30371-2017** filed by petitioner Manjot Singh alias Moti Pal and **CRM-M-34633-2017** filed by petitioner Sandeep Kumar @ Kalu Shah, who are accused in FIR No.5 dated 10.8.2016, under Sections 25 of Arms Act and 17, 18, 20 of Unlawful Activities (prevention), Act, 1967 registered with Police Station SSOC, Amritsar for grant of regular bail.

The FIR in this case was registered on the basis of secret information received that Gurbal Singh @ Pala son of Santokh Singh, resident of village Jalalpur Kalan, District Jalandhar, Major Singh son of Jarnail Singh, resident of Dachar, Tehsil Nissing, District Karnal, presently at Dera Gurudwara Gudana Sahib Village Veeronangal District Amritsar, Harpal Singh son of Hardeep Singh, resident of village Rakh Amit, Jalalabad presently residing at Khudda Alisher were in the process of committing the terrorist activities and were in touch with Jagdish Singh @ Bhura son of Gulzar Singh, resident of village Mori, Police Station Sudhar, District Jagraun terrorist of Khalistan Zindabad Force, presently residing at Belgium and Jasbir Singh @ Jassi and Kuldeep Singh @

Deepa and efforts were being made to revive the terrorism in the State of Punjab; that Ranjit Singh @ Neeta from Pakistan was also quite active in revival of terrorism in Punjab; that were receiving huge amount from foreign countries besides consignment of arms. A police party on 10.8.2016 had apprehended Gurpal Singh at turning point of Pakke Umranangal, Jalandhar while he was going on his motorcycle and his personal search revealed that he was carrying 9 mm pistol in the dub of his pant along with a magazine containing six live rounds. During the investigation Major Singh was arrested. He was found in possession of pistol of 30 bore along with magazine containing 10 live rounds. On 16.8.2016, Major Singh had got recovered one magazine of 32 bore alongwith 10 live rounds. Richhpal Singh was also found in possession of 3 pistol of 32 bore along with 3 magazine containing 15 live rounds. Of course none of them possessed valid licence for possession of arms and ammunition. Jaswinder Kaur and Manjot Singh alias Moti Pal were also arrested. However, no recovery was effected from them. Sandeep Kumar @ Kalu Shah was also arrested and pistol of 9 mm, 2 pistols 9 mm, 13 cartridges of 9 mm, one pistol of 32 bore, 2 magazine of same bore and 13 cartridges were recovered from him. They had moved applications for regular bail in the Court of Sessions, however, they were unsuccessful, as such they have approached this Court by way of filing these petitions asking for the similar relief, notice of which has been issued to the respondent – State, which put in appearance through counsel.

I have heard learned counsel for the petitioners, learned State counsel as well as learned counsel for the complainant besides going

through the record.

Learned counsel for the petitioners have contended that in the FIR recorded, names of accused Sandeep Kumar @ Kalu Shah, Jaswinder Kaur and Manjot Singh @ Moti were not mentioned and they have been roped in wrongly. As a matter of fact no recovery had been effected from accused Gurpal Singh and Major Singh but the arms and ammunition had been planted upon them just to connect them with the case. It has further been contended that though FIR was registered on 10.8.2016, accused Sandeep Kumar @ Kalu Shah was arrested on 15.4.2017 after a span of eight months without there being any evidence to connect him with the other accused. Furthermore offences under Unlawful Activities (Prevention) Act, 1967 can be investigated by an Officer not below the rank of DSP but it was so done making the investigation vitiated; that there is no evidence to show that Khalistan Zindabad Force has been declared a terrorist organization by Government of India, Government of Punjab or any other recognized international body or the foreign based persons have any past record of being engaged in terrorist activity, therefore, no offence under Unlawful Activities (Prevention) Act, 1967 is made out and at best offence under Section 25 of the Arms Act could be there against persons from whom the recoveries were allegedly made.

On the other hand, leaned State counsel has contended that during the investigation it came out that all the petitioners are linked with foreign based terrorist receiving money and weapons from them to revive the terrorism in the State of Punjab and they do not deserve to be granted regular bail.

After hearing learned counsel for the parties, I find that none of the petitioners is shown to have any past terrorist record what to talk of having been convicted for such activities. Similarly, the petitioners being in league foreign based persons can be proved during the trial only. With there being no clear and cogent evidence regarding such foreign based persons to be terrorists or having been convicted for such acts or being members of any banned terrorist organization, the present petitioners desiring revival of terrorism in State of Punjab comes out to be a debatable point. It is not the case of the prosecution that any one of such persons had indulged in any terrorist activity attacking or killing any person or damaging or destroying any property for that purpose. For recovery of weapons and ammunition, they can at best be booked for offence under Section 25 of the Arms Act. It has to be kept in mind that weapons are not prohibited ones or of such type which are used by terrorists only. Though challan against said persons is said to have been filed but the trial is at preliminary stage. The guilt of the petitioners shall be determined during the trial. The conclusion of trial is likely to take some time and further detention of petitioners shall not serve any useful purpose.

Under the circumstances, I find it proper and appropriate if concession of regular bail is granted to the petitioners.

Accordingly, the petitions are allowed. The petitioners are ordered to be released on bail during the pendency of the trial, subject to their furnishing bail bonds and surety bonds to the satisfaction of the trial Court/Chief Judicial Magistrate, Amritsar, on following conditions:

(i) They shall appear in the Court on each and every date of hearing.

(ii) They shall not give any threat or intimidation to the prosecution witnesses.

(iii) They shall not leave India without prior permission of the Court.

In addition to that the trial Court may impose any term and condition found suitable to ensure that the petitioners do not abscond and interfere in the trial or indulge in any criminal activity much less relating to terrorism. It may be observed that if any of the petitioners is found to be indulging in any criminal/terrorist acts, benefit of the regular bail granted to them vide this order shall be liable to be withdrawn.

The petitions stand allowed accordingly.

6.4.2018
Brij

(H.S. MADAAN)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No