

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

CRM-M-18853-2018
Date of decision: 06.12.2018

Jarnail Singh

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present:- Mr. P. S. Ahluwalia, Advocate
for the petitioner.

Mr. M. S. Nagra, AAG, Punjab.

ARVIND SINGH SANGWAN, J. (Oral)

This petition has been filed under Section 439 of the Code of Criminal Procedure for grant of regular bail to the petitioner in case FIR No. 209 dated 21.09.2007, registered under Sections 302, 307, 323, 324, 326, 148, 149, 201 of the IPC and Sections 25, 27 of the Arms Act at Police Station Civil Lines, Patiala.

Learned counsel for the petitioner submits that there is a serious dispute about the identity of the petitioner as according to prosecution version, one of the accused is Kala Singh s/o Bhag Singh, whereas the petitioner's name is Jarnail Singh s/o Tara Singh.

Learned counsel for the petitioner has relied upon petitioner's Passport, Aadhar Card, PAN Card, Driving License as well as the birth certificates of the children of the petitioner to submit that the name of the petitioner is Jarnail Singh s/o Tara Singh.

Learned counsel for the petitioner has further submitted that in

the year 2008, the petitioner has moved an application before the Court of Additional Sessions Judge, Patiala for providing information about the pendency of the case against him in Police Station Civil Lines, Patiala and on 13.03.2008, the Additional Sessions Judge, Patiala, after recording the statement of SHO, Police Station Civil Lines, Patiala that there is no case registered against the petitioner and he is not required in any case, consigned the said application to the record room.

It is further submitted that similar application was moved by the son and wife of the petitioner, in which again, after receiving information from the police, the similar order was passed on 31.03.2008.

Learned counsel for the petitioner further submits that in the meantime, the persons, who faced the trial in the version and cross-version, were convicted and after the lapse of a long time, the petitioner was arrested on the premises that petitioner is Kala Singh s/o Bhag Singh.

Learned counsel for the petitioner further submits that petitioner is in judicial custody since 17.11.2017 and relies upon interim orders, passed by the trial Court, to submit that despite issuance of a letter to the Senior Superintendent of Police for procuring the presence of witnesses, they are not appearing and co-accused of the petitioner, namely Amreek Singh @ Mela Singh, has already been granted concession of regular bail, vide order dated 02.11.2018 passed in CRM-M-37062-2018.

Learned counsel for the petitioner further submits that presently only two persons, i.e. the petitioner and co-accused Amreek Singh @ Mela Singh, are facing trial.

Learned counsel for the petitioner has also placed reliance upon the judgment of conviction, passed by the Additional Sessions Judge,

Patiala, in which at Sr. No. 29, one of the accused, who was shown to be absconding, is Kala Singh s/o Bhag Singh as well as upon the civil suit, filed by the legal representative of deceased Asa Singh and others, titled as ***Kulwant Kaur vs. Ravinder Singh*** (CS No. 139 dated 31.05.2017), in which defendant No. 27 is Kala Singh s/o Bhag Singh and petitioner is not impleaded as a defendant.

Learned counsel for the petitioner further submitted that petitioner was granted interim bail vide order dated 26.07.2018 on account of death of his mother and after availing the same, he had surrendered back and therefore, there is no possibility of absconding from the process of law.

Learned State counsel, on instructions from SI Shiv Kripal Singh, could not dispute the factual position.

I have heard learned counsel for the parties.

Without commenting upon the merits of the case, considering the aforesaid submissions of learned counsel for the petitioner and also in view of the fact that there is serious dispute about the identity of the petitioner, the instant petition is allowed. The petitioner is ordered to be released on regular bail on his furnishing bail/surety bonds to the satisfaction of the trial Court/Duty Magistrate concerned.

December 06, 2018

Waseem Ansari

**(ARVIND SINGH SANGWAN)
JUDGE**

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No