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IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

Crl. Misc. No. M-20786 of 2018

Date of Decision: September 05, 2018

Gurnam Singh

.....Petitioner

versus

State of Punjab

.....Respondent

CORAM: HON'BLE MR.JUSTICE SUDHIR MITTAL

Present: Mr. H.S. Brar, Advocate
for the petitioner

Mr. J.S. Walia, Sr. DAG Punjab

Dr. Anmol Rattan Sidhu, Sr. Advocate with
Mr. G.P.S. Ghumman, Advocate
for the complainant

Sudhir Mittal, J. (Oral)

The petitioner seeks grant of regular bail in case FIR No. 47 dated 18.05.2016 under Sections 302, 307, 427, 148, 149, 212, 216, 120-B IPC and Sections 25, 27 of Arms Act, 1959, registered at Police Station P.A.U. District Ludhiana.

One Baba Ranjit Singh Dhandrianwale was traveling in a convoy of cars to attend a religious function on 17.05.2016. His convoy was allegedly stopped at a 'Chhabil' on the pretext of serving sweet water and then an attack was made with lathis, axes and fire arms, in which one Baba Bhupinder singh lost his life. The attack was infact on Baba Ranjit Singh Dhandrianwale and was allegedly master minded by the head of the Damdami Taksal.

Learned counsel for the petitioner submits that the FIR was registered on 18.05.2016, in which the petitioner was not named. Thereafter, complainant Kulwinder singh suffered a supplementary statement on 24.05.2016. Then, on

Section 161 Cr.P.C. Till this stage, the petitioner was not named as an accused. One Jeewan Singh got his statement recorded on 20.07.2016, in which it has been alleged that the petitioner was armed with an axe and gave a blow with the said weapon on the left side of the windscreen of the car ahead of the car of Baba Ranjit Singh Dhandrianwale. Thus, the submission is that the petitioner was named as an accused two months after the date of the incident and his role is of having used an axe to hit the left side of the windscreen of the car in which Baba Ranjit Singh Dhandrianwale was not travelling. The petitioner has been in custody since 26.05.2016 and no PW has been examined till date. The similarly placed accused namely Gurmeet Singh has been granted bail vide order dated 04.09.2018 passed in CRM-M-37293-2018. Thus, on the basis of custody period, role of the petitioner as well as the principle of parity and keeping in view the fact that the trial is not likely to be concluded at an early date, the petitioner deserves to be released on regular bail.

Custody certificate dated 30.7.2018 prepared by Sh. Iqbal Singh Dhaliwal, PPS, Deputy Superintendent, Central Jail, Ludhiana has been filed in the Court today and the same is taken on record. A copy of the same has been supplied to the counsel opposite.

According to his certificate, the petitioner has undergone actual custody of 2 years, 2 months and 3 days and there is no other case pending against him.

Learned senior counsel for the complainant as well as learned counsel for the State submit that the present case is one where one sect attacked the head of another sect with prior planning. 'Chhabil' had been set up only as a cover to intercept the convoy of Baba Ranjit Singh Dhandrianwale and the persons who were serving the sweet water enquired from the driver of the car regarding the vehicle in which Baba Ranjit Singh Dhandrianwale was seated. As soon as the information sought by them came to their knowledge, the windscreen of the cars in

the convoy were sprayed with foam so as to blind the vision of the drivers of the respective vehicles and concerted attack was mounted with fire arms and blunt weapons. The driver of Baba Ranjit Singh Dhandrianwale had the presence of mind to drive away from the scene but his car was followed and fired at. Baba Ranjit Singh Dhandrianwale escaped providentially but the person seated in the co-driver's seat lost his life. Moreover, it is wrong to say that the petitioner was named for the first time on 20.07.2016 because the supplementary statement of the complainant recorded on 24.05.2016 shows that the petitioner was named therein as an accused although a specific role had been attributed only in the statement of 20.07.2016. The Damdami Taksal has still not stopped extending threats to Baba Ranjit Singh Dhandrianwale and the members of the sect and as late as on 20.05.2018 the Spokesperson of the Damdami Taksal has held out the public threat. Thus, in case the petitioner is released on bail it is likely that the witnesses may be intimidated. Even in the past, the lawyers representing Baba Ranjit Singh Dhandrianwale and the members of his sect have been threatened. Danda has been recovered from the petitioner which shows his complicity in the crime. Four private witnesses and two doctors have been summoned for tomorrow i.e. 06.09.2018. In view of the submissions, the petitioner is not entitled to regular bail and in any case, the hearing be deferred to a date beyond 06.09.2018, so as to enable the examination of the private witnesses.

It appears that Damdami Taksal is opposed to Baba Ranjit Singh Dhandrianwale sect, may be due to religious differences or due to political alignments. From the allegations in the FIR, it appears that a pre-planned attack was made on the convoy of Baba Ranjit Singh Dhandrianwale with the intention of killing him. However, at this stage nothing can be said with any amount of certainty as no evidence has come on record. For the purposes of grant of bail, the only consideration before the Court are the gravity of the offence, period of custody

already suffered by the accused, the criminal antecedents of the accused person as well as the likelihood of such an accused interfering with the purity of the judicial process. The question is whether keeping in view these principles the petitioner is entitled to grant of regular bail? The custody certificate indicates that as on date the petitioner has been incarcerated for 2 years, 2 months and 3 days and the trial has not yet commenced in the sense that not a single prosecution witness has been examined. Reasons for the delay may be any and the same are not matter of consideration, I am not concerning myself with the same in this order. The petitioner is alleged to be a part of an unlawful assembly and is accused of having used force with common object of causing death of Baba Ranjit Singh Dhandrianwale and members of his sect. However, the specific role attributed to the petitioner is of having used an axe to strike the left side of the windscreen of the car of Baba Ranjit Singh Dhandrianwale. Thus, no overt act of causing physical harm to any person is attributed to him. Whether the petitioner shared common intention with other members of the unlawful assembly is a matter of evidence and can not be commented upon as on date. The custody certificate shows that the petitioner does not have any criminal antecedents. He is alleged to be 68 years old. An accused namely Gurmeet Singh, who is similarly placed as the petitioner has already been granted regular bail by this Court vide order dated 04.09.2018 passed in CRM-M-37293-2018. Thus, I deem it appropriate to grant regular bail to the petitioner.

The petition is allowed and the petitioner is directed to be released on regular bail on his furnishing bail and surety bonds to the satisfaction of the trial Court concerned.

September 05, 2018

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[SUDHIR MITTAL]
JUDGE

Whether speaking/reasoned : Yes/No

Whether Reportable : Yes/No