

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

210

**CRM-M-21532-2018 (O&M)
Date of decision:31.05.2018**

Gajab Singh @ Gajju

...Petitioner

Versus

State of Haryana

.... Respondent

CORAM: HON'BLE MR. JUSTICE P.B. BAJANTHRI

Present: Mr.Ankur Lal, Advocate for the petitioner.

Mr. Munish Sharma, AAG, Haryana.

P.B. BAJANTHRI, J. (ORAL)

In the present petition, petitioner has prayed for regular bail under the provision of Section 439 Cr.P.C. arising out of the FIR No. 78 dated 15.03.2017 under Section 25 of the Arms Act and 148, 149, 452, 506, 302 IPC, registered at Police Station, Sadar Ballabhgarh, District Faridabad, Haryana. Co-accused Amarpal has been extended the benefit of bail on 20.04.2018 which reads as under:-

"Petitioner seeks grant of regular bail in FIR No.78 dated 15.03.2017, under Sections 148, 149, 307, 452, 506, 120-B of Indian Penal Code, 1860 (for short 'IPC') (Section 302 IPC added subsequently) and Sections 25/54/59 of Arms Act, 1959, registered at Police Station Sadar Ballabgarh, District Faridabad.

Heard learned counsel for the rival parties.

Learned counsel for the parties are ad idem that the challan has been filed in the trial Court after

investigation. In the FIR, following are the allegations in relation to murder of Manish:-

“.....After around 15 minutes Daljeet s/o Kawar Singh, Kawar Singh, Bhawar Singh, Kuldeep s/o Shinghraj, Kuldeep @ Dantu s/o Jagdish, Sumit @ Nate s/o Ompal, Gajju s/o Naval caste Gujjar, Amar s/o Bedi caste Harijan, Mani @ Dantu s/o Dhani caste Harijan, resident of village Mujeri and Satpal s/o Dharamveer caste Gujjar resident of Mujeri, all of a sudden reached at the house of Bhagatji and on reaching, Satpal shouted that Manish is sitting here and we have a chance. He should not escape. On saying of Satpal, Daljeet, Kanwar Singh and Bhawar with their respective weapons started firing on my nephew Manish. That fire hit the arm of Manish and other hit the walls. Then Satpal and Bhawar shouted to fire on his head so that he is finished. Then Diljeet fired which hit the head of Manish. Bhawar Singh fired gun shot which just crossed form side of my ear. All the persons saying that Manish has fallen down and Chawan is safe will see him afterwards. On saying this all the persons ran from the spot.....”

Learned counsel for the petitioner submitted that no overt act is attributed to Amarpal son of Bed Ram @ Bedi and therefore, he is entitled to grant of regular bail. He submitted that Kanwar Singh, Bhawar Singh, Kuldeep ss/o Shinghraj, Mani @ Dantu s/o Dhani and Satpal s/o Dharamveer have been declared innocent by the investigating officer.

Learned State counsel submitted that ACP (Crime), Faridabad, namely Sukhbir Singh, IPS has declared them innocent because they were not found present as seen in the investigation by him.

Perusal of the aforesaid allegations in the FIR show specific role of overt act is attributed to the aforesaid five persons who have been declared innocent. In my view, if what has stated by the counsel for the petitioner, is correct, the investigating officer had no reason to adjudicate that the aforesaid five accused persons were not involved in the crime.

In that view of the matter, concerned investigating officer, namely Sukhbir Singh, IPS, ACP (Crime) Faridabad is directed to file an affidavit as to under which law he became adjudicator in contrast to the specific allegations quoted by me above. The affidavit shall be filed within 2 weeks from today.

In so far as the present petitioner-Amarpal is concerned, I find from the allegations in the FIR that there is no overt act attributed to him, but for the fact that he was the part of unlawful assembly. In that view of the matter, looking the fact that since the date of his arrest, i.e. 18.03.2017, he is in jail, I am inclined to grant him bail.

In that view of the matter, this petition is allowed. The petitioner be released on bail to the satisfaction of the concerned Chief Judicial Magistrate/Duty Magistrate. The petitioner shall not tamper, influence and threaten the prosecution witnesses and complainant as well. The petitioner shall deposit his passport, if he possesses, with the trial Court.

Put up on 04.05.2018 for filing affidavit as above."

2. Learned counsel for the State submitted that the petitioner was member of unlawful assembly and admitted the fact that co-accused on equal role has been admitted to bail.

3. In terms of the order passed in CRM-M-46427-2017 titled as

Amarpal Versus State of Haryana, petitioner is entitled to regular bail as no overt act has been attributed to him except member of unlawful assembly.

4. Therefore, without expressing any opinion on the merits of the case, the instant petition is allowed. Petitioner, namely, Gajab Singh @ Gajju is ordered to be released on regular bail on his furnishing bonds to the satisfaction of trial Court/Duty Magistrate.

31.05.2018

pooja saini

**(P.B.BAJANTHRI)
JUDGE**

Whether speaking/reasons

Yes/No

Whether Reportable:

Yes/No