

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

CRM-M No.26643 of 2018

Decided on: 14.08.2018

Harmanbir Singh

....Petitioner

Versus

State of Punjab

....Respondent

CORAM: HON'BLE MR JUSTICE ARVIND SINGH SANGWAN

Present : Mr. Upender Prasher, Advocate for the petitioner.

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

ARVIND SINGH SANGWAN, J. (Oral)

Prayer in this petition is for grant of regular bail to the petitioner under Section 439 of the Code of Criminal Procedure (in short 'Cr.P.C.') in FIR No.55 dated 25.04.2018, for offence punishable under Sections 307, 353, 186, 148, 149 of the Indian Penal Code, 1860 (in short 'IPC'), registered at Police Station Ajnala, District Amritsar (Rural).

While granting regular bail to co-accused Uttam Singh and others, following order was passed on 03.08.2018 in CRM-M-31998-2018: -

“This petition has been filed under Section 439 of the Code of Criminal Procedure for grant of regular bail to the petitioners in case FIR No. 0055 dated 25.04.2018, registered under Sections 307, 353, 186, 148 and 149 of the IPC at Police Station Ajnala, District Amritsar.

Learned counsel for the petitioner submits that as per the allegations in the FIR, a police party, in compliance of the order passed by the Additional Sessions Judge-cum-Presiding Officer, Waqf Tribunal, Amritsar, had gone to hand over the possession of a land to one

Ramesh Kumar. It is further stated in the FIR that at the spot, one Gurdeep Singh s/o Mohan Singh came from the Dera of Mohan Singh driving a tractor of red color and on the right mudguard of the tractor, Uttam Singh armed with Daang, and on the left mudguard, Jagbir Singh armed with Daang along with other co-accused armed with Daang and sticks came at the spot. Mohan Singh raised lalkara that police party be run over by the tractor, upon which, Gurdeep Singh, who was driving the tractor, with an intention to kill the police party, drove the tractor towards them, however, the police party escaped by running away.

Learned counsel for the petitioner further submits that no role has been attributed to the present petitioners except that they were present at the spot and during the investigation, conducted by the SP (Investigation), three persons namely Mohan Singh, Jagbir Singh and Gurdeep Singh have already been found innocent and the petitioners had no connection with the land in dispute. It is further submitted that petitioners are in judicial custody since 25.04.2018 and the challan has been presented.

Learned State counsel, on instructions from SHO Paramvir Singh, has not disputed that factual position.

I have heard learned counsel for the parties.

Without commenting upon the merits of the case, considering the fact that the allegations, invoking the provisions of Section 307 IPC, are levelled against co-accused Gurdeep Singh that he tried to run over the police party with the help of a tractor, who himself has been found to be innocent in the inquiry conducted by the SP (Investigation), this petition is allowed. The petitioners are ordered to be released on regular bail on their furnishing bail/surety bonds to the satisfaction of the trial Court/Duty Magistrate/Illaq Magistrate, concerned.”

Learned counsel for the petitioner submits that even against the petitioner, there are no specific allegations and co-accused Gurdeep Singh, against whom there are allegations that he has tried to run over the police party with the help of a tractor, was found innocent during the enquiry conducted by Superintendent of Police (Investigation) and later on, on the application moved by the prosecution, he stands discharged in the case.

Learned State counsel has filed the custody certificate in the Court today and as per the custody certificate, the petitioner is in custody for the last 03 months and 15 days and is not involved in any other case.

Without commenting anything further on merits of the case, considering the fact that the allegations, invoking the provisions of Section 307 IPC, are against co-accused Gurdeep Singh, who was found innocent in the enquiry conducted by the SP (Investigation); the petitioner is not involved in any other case, this petition is allowed and the petitioner is directed to be released on regular bail subject to furnishing his bail/surety bond to the satisfaction of the trial Court/Illaqa Magistrate/Duty Magistrate.

However, it will be open for the prosecution to apply for cancellation of bail of the petitioner, in case he is found involved in any other case or misusing the concession of bail, in any manner.

(ARVIND SINGH SANGWAN)
JUDGE

14.08.2018
yakub

Whether speaking/reasoned	Yes/No
Whether reportable:	Yes/No