

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-28175-2018

Date of decision: 13.07.2018

Vikram Singh

... Petitioner

Vs.

State of Haryana

... Respondent

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present: Mr. Anmol Rattan Sidhu, Sr. Advocate with
Mr. Pratham Sethi, Advocate
for the petitioner.

Mr. Naveen Sheoran, DAG, Haryana.

ARVIND SINGH SANGWAN, J. (ORAL)

Prayer in this petition is for grant of regular bail in FIR No.334 dated 25.08.2017 under Sections 146, 147, 148, 149, 120-B, 307, 332, 353, 186, 188, 427, 435 IPC, Sections 3 & 4 of Prevention of Damage to Public Property Act, 1984 and Section 25 of Arms Act, registered at Police Station Sector-5, Panchkula.

Learned senior counsel for the petitioner submits that in the FIR, there are total 109 accused persons, out of which 104 have already been granted bail. Learned senior counsel for the petitioner has relied upon the order dated 02.07.2018 passed by this Court in CRM-M-22983-2018, wherein the following order has been passed: -

“Learned Senior counsel for the petitioner submits that the

petitioner was arrested on the basis of the disclosure statement of co-accused and in pursuance to the said disclosure statement, no recovery was effected from him. Learned senior counsel further submitted that as per the allegation in the FIR, many persons have been nominated as accused persons and out of 109 accused persons, 103 accused persons have already been granted concession of regular bail.

Learned senior counsel for the petitioner has relied upon the order dated 16.11.2017 passed in CRM-M-42080 of 2017 in which two accused, namely, Labh Singh and another have been granted concession of regular bail. The operative part of the order is reproduced as under:-

“FIR in this case was registered on the complaint of ASI Jaswinder Singh, who was present on 25.08.2017 with his police force and Paramilitary force in Sector 3, Panchkula in front of Hotel Holiday Inn, where about 25,000 to 30,000 followers of Head of Dera Sacha Sauda were present. The mob present there became violent after the conviction of Head of Dera Sacha Sauda and indulged in arson.

Learned counsel for petitioner submits that petitioner no.1- Labh Singh had come to drop his parents, who were followers of Dera Sacha Sauda and in the incident he received a firearm injury on his leg. Petitioner no. 2- Barjinder Pal is an old man of 62 years of age and was called to Panchkula as he was having agency of MSG, which sells products of Dera Sacha Sauda. There is no allegation against them that they either indulged in arson or were armed with any weapon. He further submits that the lower Court has allowed regular bail to several accused in this case vide order dated 08.11.2017. Claiming parity with those accused, he seeks bail for petitioners.

Learned State counsel submits that petitioners were members of unlawful assembly, who were present near

Hotel Holiday Inn and were indulging in arson and activity of causing damage to public property. He further submits that no recovery was effected from both the petitioners in this case. They were arrested on 25.09.2011 after their discharge from the hospital.

It has been submitted that after completion of investigation, police has already presented the challan against some of the accused in this case.

Taking note of above facts but without expressing any opinion on merits of the case and keeping in view the fact that conclusion of trial will take considerably long time, the present petition is allowed. Petitioners, namely, Labh Singh and Barjinder Pal are ordered to be released on regular bail on furnishing bail bonds and surety bonds to the satisfaction of concerned trial Court/Chief Judicial Magistrate/Duty Magistrate, subject to following terms:-

(a) Petitioners shall comply with the conditions mentioned in Section 437(3) Cr.P.C.

(b) In the event of their absence on any date of hearing, the benefit of bail allowed to petitioners shall stand withdrawn. The trial Court shall be competent to cancel their bail bonds and surety bonds and proceed to procure their presence in accordance with law. In that eventuality petitioners shall have to apply for bail afresh.

(c) They shall not leave the country without the previous permission of the Court.”.

Counsel for the petitioner further submits that the aforesaid co-accused Labh Singh was found involved in the incident and he has even suffered firearm injuries on his leg whereas no overt act is attributed to the petitioner and in another FIR No. 345 dated 27.08.2017, the petitioner has already been granted concession of bail vide order dated 06.04.2018 passed in CRM-M-6971 of 2018.

Learned State counsel, on instructions from SI Jai Singh,

has not disputed the factual position but opposed the prayer of bail on the ground that the petitioner was a member of the Core Committee of Dera Sacha Sauda and was actively involved in the commission of offence.

Learned State counsel further submits that challan has been presented on 27.02.2018 and charges have not been framed.

In reply, learned senior counsel for the petitioner submits that no evidence has been collected by the Investigating Officer that the petitioner was a Member of said Committee and it is only on the disclosure statement of the coaccused, the petitioner is stated to be a Member of Core Committee.

Without commenting anything upon the merits of the case, considering the fact that the co-accused have already been granted concession of regular bail; challen has been presented on 27.02.2018; charges are yet to be framed; conclusion of the trial will take long time and also in view of the fact that the petitioner in on bail in FIR no. 345 dated 27.08.2017, this petition is allowed. The petitioner is directed to be released on bail subject to his furnishing bail/ two heavy sureties to the satisfaction of the trial Court. However, it is made clear that in case, the petitioner is found involved for mis-using the concession of bail, it will be open for the prosecution to move an application for modification of the order.

Disposed of.”

Learned senior counsel for the petitioner further submits that in two cases registered at Sirsa, the petitioner is on bail and he has been involved in the present FIR on the disclosure statement of co-accused Nazir Singh, who has already been granted the concession of bail. It is further submitted that the allegations against the petitioner are that he is one of the followers of the dera and he is an agriculturist by profession and no overact has been attributed to him. It is also submitted that on 03.07.2018 in a similar case, the Public

Prosecutor has even made a statement that so far sanction has not been accorded by the State Govt. for prosecution of the accused persons, for the commission of offences punishable under Sections 121, 121-A, 122 IPC. The operative part of the order passed by the Additional Sessions Judge, Panchkula in case No.SC/13 of 2018 is reproduced as under: -

“Today, the proceedings were fixed for arguments on the point of framing charge-sheet against the accused. At the very outset, the learned Public Prosecutor has fairly conceded that for prosecuting the accused for the commission of offence punishable under Sections 121, 121-A and 122 of IPC, sanction has not been accorded by the Government and impressed upon the framing of charge under the remaining offences. Now, file be put up after some time as there are 41 accused in this case and counsels for some of them want to address arguments on the point of framing charge under remaining offences.

*(Neerja K. Kalson)
ASJ, Pkl/03.07.2018”*

Learned State counsel has filed the custody certificate dated 12.07.2018 and as per this custody certificate, the petitioner is in judicial custody for the last 04 months and 18 days. Learned State counsel, on instructions from SI Jaswinder Singh, has however submitted that there are three other cases pending against the petitioner at Sirsa and out of these three cases, in two FIRs, he is on bail.

Learned State counsel has not disputed the fact that number of co-accused have already been granted the concession of bail and the petitioner was

not holding any post in the organization of dera.

Without commenting anything on merits of the case, considering the fact that co-accused of the petitioner have already been granted the concession of regular bail and the petitioner was involved in the present FIR only on the disclosure statement of co-accused Nazir Singh, who is enlarged on bail and also in view of the fact that challan has been presented and the charges are yet to be framed, 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/Illaq Magistrate/Duty Magistrate.

Petition is disposed of.

[ARVIND SINGH SANGWAN]
JUDGE

13.07.2018
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Whether speaking/reasoned : Yes/No

Whether Reportable : Yes/No