

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

Criminal Misc.No.M-38174 of 2018 (O&M)

Date of Decision : 19.11.2018

Gurjant Singh

..... Petitioner

Versus

State of Punjab

..... Respondent

CORAM : HON'BLE MR. JUSTICE RAJ SHEKHAR ATTRI

Present : Mr. Tejinder Pal Singh, Advocate
for the petitioner.

Mr. V.G.Jauhar, Sr. DAG, Punjab.

Mr. Preetinder S.Ahluwalia, Advocate
for the complainant.

RAJ SHEKHAR ATTRI, J. (Oral)

The petitioner is seeking regular bail under Section 439 Cr.P.C., which is third one, in case FIR No.196 dated 06.10.2017, registered under Sections 307, 506, 34 IPC and Section 27 of the Arms Act at Police Station Bhawanigarh, District Sangrur. The previous two applications were dismissed as withdrawn vide orders dated 14.03.2018 and 16.07.2018, passed by this Court in CRM Nos. M-9836 and 19780 of 2018 respectively.

Briefly stated, it is a case of the prosecution that on 06.10.2017 at about 12:25 p.m., complainant Amandeep Singh alongwith his paternal uncle jagroop Singh was present in the field. At that time, Gurjant Singh armed with .22 bore rifle and his son Dana Singh armed with .12 bore rifle came on a two-wheeler. An altercation took place between Jagroop Singh and a duo. At that time, the complainant and Ajaib Singh were present at

some distance. However, on hearing the heated arguments, they ran towards them. But before he could reach there, Gurjant Singh fired two shots in the air with his revolver and then he fired another shot which hit Jagroop Singh in the abdomen. After receiving gun shot injury, jagroop Singh fell down. The assailants escaped from the spot on the two-wheeler by raising *lalkaras* and extending threats.

The police investigated the matter and declared Dana Singh as innocent. As such, the final report under Section 173 Cr.P.C. was submitted only against Gurjant Singh.

The petitioner was arrested in this case on 08.10.2017. The trial has yet not been finally concluded. However, the prosecution filed an application under Section 319 Cr.P.C. to summon co-accused Dana Singh and the said application was dismissed by the trial court. As such, the complainant/victim Amandeep Singh preferred a criminal revision No.2211 of 2018 which has been allowed by this Court vide separate order of even date and Dana Singh has been summoned as an additional accused for the offences punishable under Sections 307, 336, 506, 34 IPC.

I have given my thoughtful consideration to the rival contention and gone through the material available on record.

Learned counsel for the complainant has submitted that this is the third petition for grant of regular bail and the same should not be entertained.

While rebutting this argument, learned counsel for the petitioner has submitted that now complainant has filed a revision petition i.e. Criminal Revision No.2211 of 2018 before this court whereby passing of final order has been stayed and this fact itself give fresh cause of action

to file the present petition. He has further submitted that previous applications were dismissed as withdrawn on technical grounds and were not decided on merits.

To the mind of this court, in the circumstances prevalent in this case, the petitioner is entitled to file this application for grant of regular bail.

It is undisputed fact that in the FIR, name of co-accused Dana Singh has been mentioned and his presence is shown at the place of occurrence but during investigation he was declared innocent and due to this reason, the prosecution has filed an application under Section 319 Cr.P.C. which was dismissed by the trial court. The complainant filed the revision petition No.2211 of 2018 which has been accepted by this court vide my separate order of even date. Thus, Dana Singh has been arrayed as an accused and fresh evidence be adduced against him.

At this stage, this court shall not meticulously examine the evidence available on the record because it may likely to prejudice the case of either party.

In the reply, State counsel has produced the medical record from the Jail Superintendent as well as certificate issued by the Medical Officer, District Jail, Sangrur, wherein it is stated that the petitioner is suffering from CVA C – Hamiparisis C-Piles.

Without expressing any opinion on merits of the case and keeping in view the humanitarian grounds and also considering that he is in custody for more than one year, this Court is of the opinion that he is entitled to the concession of bail so that he may himself get medically treated. However, the trial is near completion as it is fixed for defence

evidence. The trial court is directed to expedite the trial and dispose of the same as early as possible within a period of two months by adjourning the case on day to day basis or giving short adjournments.

Consequently, the instant petition is accepted. Petitioner Gurjant Singh is ordered to be released on regular bail on furnishing bail bond and surety bond to the satisfaction of concerned trial Court/Chief Judicial Magistrate/Duty Magistrate, subject to following terms:-

- (a) The petitioner shall comply with the conditions mentioned in Section 437(3) Cr.P.C.
- (b) In the event of his absence on any date of hearing, the benefit of bail allowed to the petitioner shall stand withdrawn. The trial Court shall be competent to cancel his bail bond and surety bond and proceed to procure his presence in accordance with law. In that eventuality the petitioner shall have to apply for bail afresh.
- (c) He shall not leave the country without the previous permission of the Court.
- (d) That he will maintain peace and be of good behaviour.

19.11.2018
mamta

(RAJ SHEKHAR ATTRI)
JUDGE

Whether speaking/reasoned
Whether Reportable :

Yes/No
Yes/No