

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CRM-M-3946-2018 (&M)
Date of Decision: 12.02.2018

Rajinder Kumar @ Pappu

..... Petitioner

Versus

State of Punjab

..... Respondent

CORAM: HONBLE MR. JUSTICE SUDIP AHLUWALIA

Present: Mr. R.S.Cheema, Sr. Advocate with
Mr. Arshdeep Singh Cheema, Advocate
for the petitioner.

Mr. Luvinder Sofat, AAG, Punjab.

Mr. Bipin Ghai, Sr. Advocate with
Mr. Deepanshu Mehta, Advocate and
Mr. Vivek Salathia, Advocate
for the complainant.

SUDIP AHLUWALIA J. (ORAL)

CRM-4929-2018

Applicant-petitioner is permitted to place on record the documents as Annexures P-20 to P-24.

CRM stands disposed off.

CRM-M-3946-2018

1. This is a petition filed under Section 439 Cr.PC for grant of regular bail in the case FIR No.105 dated 11.10.2017 registered under Sections 307/506/148/149 and 25/27/54/59 of Arms Act at Police Station Kathu Nangal, District Amritsar.

2. FIR was originally lodged under Sections 307, 506, 148, 149 IPC and Sections 25, 27, 54 and 59 of Arms Act (Sections 186 and 353 IPC

were added later on) at Police Station Kathu Nangal, District Amritsar against 13 persons including the present petitioner. The petitioner was arrested on 11.10.2017.

3. After completion of investigation, challan has been submitted against 5 persons only out of those 13 persons including the present petitioner. Two out of those five challaned are yet to be arrested while the remaining three including the present petitioner are in detention. The challan has been submitted under Sections 307, 506, 148 and 149 IPC and Sections 25 and 27 of Arms Act and Sections 186 and 353 IPC (added later on). Undoubtedly, the serious ones among these are the offences under Section 307 IPC, and the one under the Arms Act for the purpose of considering the release of the petitioner.

4. Apart from this, bail prayer is opposed citing the personal background of the petitioner, who is stated to have been earlier involved in several heinous cases and list of the same has interestingly been neither part of the challan although not exactly relevant to the merits of the present case. Some of notings pertaining to the result of those cases are disturbing as well as questionable. It is strange that the authorities in those notings themselves have officially written that they did not take action in same case due to “extraneous consideration” although by tagging of this kind of report with the challan, clearly the motive would appear to be to ensure that bail is not granted to the petitioner notwithstanding with the quality of material that has otherwise emerged after completion of investigation.

5. The fact remains that the sole person injured in the occurrence, who is stated to be a 8 years old boy and allegedly the victim of gun shot injury, was got released from the hospital just two days after the admission

against medical advice. According to the Medico Legal Report, lacerated injuries on the ulimbica and one arm of the victim were seen by the Medical Officer, but without any confirmation that those had been caused by gun shot or pellet injuries. On the contrary, the child victim was taken back from the hospital just two days later against medical advice, and even his wearing apparel was not collected or produced for forensic examination to test whether any traces of lead were detectable, in spite of the specific direction of Medical Officer.

6. It has further been highlighted on behalf of the petitioner that the original Medico Legal examination of the victim was conducted at 1.50 pm, which was about 6.15 hours after the alleged occurrence, although the copy of the MLR of Kanwaljit Singh (Annexure P-13) stated to be an employee of the petitioner of the same date and just more than 2 ½ hours prior to medico legal examination of victim Kartik has been placed on record. Strangely, the authorities claim that no such MLR was actually forwarded to them through the concerned medical unit.

7. It has also been highlighted that there was a virtual mayhem as well as a hail of bullets particularly on the house of the complainant's cousin Ashok Kumar during the occurrence. But strangely, there has been no recovery of any bullet shells from the place of occurrence.

8. From the complainant's side, several photographs which apparently have been taken from the CCTV footage have been placed on record. Admittedly, the petitioner cannot be seen in any of those photographs although the explanation in this regard is that since it was a huge crowd and some distance was also involved, so his presence is difficult to identify.

9. Be that as it may, the fact remains that the actual available material in the case to justify the existence of offence under Section 307 IPC can at best be described as scanty, notwithstanding the desperate attempt on the part of the certain interests to otherwise ensure that profile of the petitioner is shown in a very bad light.

10. It is also pertinent to remember that the complainant happens to be own younger brother of the petitioner and the basic reason for the dispute between them is on account of their ancestral property, and the said younger brother also has his own history regarding involvement in previous criminal cases.

11. Be that as it may, in view of the circumstances narrated above, further detention of the petitioner for an indefinite period is unjustified. However, as and when released on bail, the petitioner shall be barred from entering into the territory of Amritsar District and shall inform his actual place of residence to the SSP(Rural) Amritsar apart from giving his phone number and any other particulars as might be required by the SSP(Rural) to keep track of his location and activities. Thereafter, he shall also be required to appear to face trial in the Trial Court on the relevant dates, of which information shall be conveyed to him by the authorities apart from his own Advocates.

12. With the above directions, the petitioner may be released on further appropriate bail terms and amounts as deemed fit and necessary by the learned Trial Court/District Magistrate, Amritsar.

13. Disposed off.

12.02.2018

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(SUDIP AHLUWALIA)

JUDGE

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No