

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

CRM-M-48638-2018

Date of decision:14.11.2018

Nirmal Singh @ Nimma

.....Petitioner

Versus

State of Punjab

.....Respondent

CORAM : HON'BLE MR.JUSTICE GURVINDER SINGH GILL

Present: Mr. Vivek Goel, Advocate
for the petitioner.

Mr. A.S. Sandhu, Addl. A.G., Punjab.

GURVINDER SINGH GILL, J. (ORAL)

The petitioner seeks grant of regular bail in case registered vide FIR No.80 dated 07.07.2017 under Sections 302, 307, 148, 149 of Indian Penal Code, 1860 and Sections 25/27 of Arms Act registered at Police Station Lohian, District Jalandhar.

The FIR was lodged at the instance of Sukhjit Singh wherein it has been alleged that on the day of occurrence when the entire family of the complainant after having dinner was preparing to sleep, then they

heard noises of several tractors accelerating (revving up of engine) outside and when the complainant went out, he saw Sukhdev Singh, Manjinder Singh, Jaswinder Singh along with 6/7 unidentified persons standing there who were hurling abuses. It is alleged that Dhira Singh, Hira Singh, Pala Singh and Mindu were accelerating and revving up engine of tractors and were hurling abuses to Sukhdev Singh etc. It is alleged that Manjinder Singh was carrying rifle, Jaswinder Singh a pistol and Sukhdev Singh a '*Kirpan*' while other unidentified persons were also carrying weapons. Pala Singh and others are alleged to be carrying sticks. It is thus alleged that there were two groups. It is further alleged that in the meanwhile Sukhdev Singh and Jaswinder Singh raised '*Lalkara*' and Sukhdev Singh exhorted Manjinder Singh to fire a shot at them and upon which Manjinder Singh fired a shot from his rifle at Pala Singh and the said shot hit complainant's son Gurbir Singh, complainant's wife Lakhwinder Kaur and complainant's brother Hira Singh. It is the case of the prosecution that on account of the said fire arm injury, Gurbir Singh ultimately expired.

The learned counsel for the petitioner has submitted that he has falsely been implicated in the present case solely on the basis of some statement of co-accused Manjinder Singh recorded during the course of interrogation and that in fact the complainant-Sukhjot Singh while in the witness-box as PW-1 had not identified the petitioner to be amongst the assailants. Learned counsel has further submitted that even the other witnesses namely PW-2 Lakhwinder Kaur and PW-3 Heera Singh had turned hostile. Learned counsel for the petitioner has today furnished

photocopies of statements of PW-1 to PW-3 and submits that in these circumstances, no useful purpose would be served by further detaining the petitioner behind bars.

The learned State counsel has submitted that since Manjinder Singh has nominated the present petitioner to be amongst the assailants, therefore, no case is made out for grant of regular bail to the petitioner and thus prayed for dismissal of the bail.

Having considered rival contentions addressed before this Court and bearing in mind the fact that the petitioner is not named in the FIR and also that the complainant while in the witness-box had not identified the petitioner to be amongst the assailants and also that the petitioner has been in custody since last one year, four months and eighteen days, in my opinion, no fruitful purpose would be served by further detaining the petitioner behind bars. Accordingly, petitioner-Nirmal Singh @ Nimma is ordered to be released on bail on his furnishing bail bonds/surety bonds to the satisfaction of learned trial Court/Chief Judicial Magistrate/Duty Magistrate Jalandhar.

It is, however, clarified that none of the observations made above shall be taken to be an expression on merits of the main case.

This petition stands accepted accordingly.

(GURVINDER SINGH GILL)
JUDGE

14.11.2018
Gaurav Sorot

Whether reasoned / speaking? **Yes / No**

Whether reportable? **Yes / No**