

CRM-M-6498-2019

Date of decision: February 20, 2019

Gaurav Kumar

....Petitioner

Versus

State of Punjab

....Respondent

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present: Mr. Simranjit Singh , Advocate
for the petitioner.

Mr. Joginder Pal Ratra, DAG, Punjab.

ARVIND SINGH SANGWAN J. (Oral)

This is the second application for grant of regular bail to the petitioner in case FIR No.110 dated 29.5.2017 registered under Sections 17, 18, 19 and 20 of the Unlawful Activities (Prevention) Act, 1967 and Sections 25, 54, 59 of the Arms Act, 1959 registered at Police Station Phase-1, SAS Nagar, Mohali. While dismissing the earlier first application CRM No.6524 of 2018 on 3.4.2018, the following order was passed:-

- [1]. Vide this common order, CRM-M No.47690 of 2017 titled Sukhpreet Singh Vs. State of Punjab, CRM-M No.1243 of 2018 titled Jarnail Singh @ Kala Vs. State of Punjab, CRM-M No.9248 of 2018 titled Ramandeep Singh @ Sunny Vs. State of Punjab and CRM-M No.6524 of 2018 titled Gaurav Kumar Vs. State of Punjab are being disposed of. Common facts are being noticed as all the petitions have arisen out of the same FIR.
- [2]. Petitioner(s) seek grant of regular bail under Section 439 Cr.P.C in case bearing FIR No.110

dated 29.05.2017 registered under Sections 25/54/59 of the Arms Act and Sections 18, 19 and 20 of Unlawful Activities (Prevention) Act 1967 at Police Station Phase I, SAS Nagar Mohali. A report under Section 173 Cr.P.C has been submitted in the aforesaid FIR.

- [3]. On 29.05.2017, the police party was present at bus stand, Phase 6, Mohali for checking bad elements. The secret information was given to the Inspector that Harvarinder Singh son of Balwant Singh, Amritpal Kaur @ Amrita wife of Kulwinder Singh @ Golu, Randeep Singh son of Tirath Singh, Jarnail Singh @ Kala son of Bachan Singh and Satnam Singh who are active members of Babbar Khalsa organization are conspiring to come to bus stand of Phase 6, Mohali with illegitimate weapons to commit some big incident. Gaurav Kumar son of Suresh Kumar resident of village Maniar who used to supply illegal weapons to aforesaid persons is also coming to bus stand along with illegal weapons. If nakabandi is done, then the aforesaid persons can be held along with illegal weapons. The information was found to be worthy of reliance and the case was registered against the aforesaid persons. Accused Harvarinder Singh and Amritpal Kaur @ Amrita were arrested. One pistol of .32 bore, 3 live cartridges and 3 letter pads of Babbar Khalsa International were recovered from Harvinder Singh. On 30.05.2017, Randeep Singh was arrested from whom two letter pads of Babbar Khalsa were recovered. Jarnail Singh was arrested from whom 2 letter

pads of Babbar Khalsa were recovered. On 31.05.2017, during interrogation accused Randeep Singh got recovered 9 MM pistol along with 3 live cartridges. On 31.05.2017, accused Satnam Singh was arrested from whom 5 letter pads of Babbar Khalsa were recovered. On 04.06.2017, accused Ramandeep Singh and Parminder Singh were arrested. Three live cartridges of 9 MM pistol were recovered from accused Ramandeep Singh and 1 pistol 9 MM and 2 live cartridges were recovered from accused Parminder Singh. On 15.06.2017, accused Gaurav Kumar was arrested from whom 9 MM pistol was recovered. Accused Sukhpreet Singh was arrested on 16.06.2017. Accused Tarsem Singh and Mohkam Singh were arrested on 18.07.2017. Bank statements of accused Harvarinder Singh and Randeep Singh were obtained. The data in respect of social site of accused Randeep Singh and Amritpal Kaur was obtained and was taken in police custody. On the basis of interrogation of the accused and on the basis of funds sent from abroad to the accused for buying the weapons in committing crime, Kulwant Singh (USA), Dilawar Singh (Abu Dhabi), Fateh Singh (South Africa), Jarnail Dhillon (Germany), Jarnail Singh (South Africa), Bhupinder Singh (South Africa), Jarnail Singh (Dubai), Surinder Singh (Portugal), Surinder Singh Babbar (UK), Resham Singh Babbar (Germany, Chief BK-G) and Amandeep Singh @ Amanpreet Singh resident of Germany were nominated as accused in this case. The investigation in the case is under progress qua the

complicity of the aforesaid persons. During investigation offences under Unlawful Activities (Prevention) Act were added.

- [4]. Learned counsel for petitioner Sukhpreet Singh submitted that FIR was registered on 29.05.2017. Petitioner was arrested on 16.06.2017. No recovery was effected from the petitioner. Petitioner was named by co-accused Jarnail Singh who was arrested on 30.05.2017. Amandeep Singh is alleged to have sent an amount of Rs.1 lac to him for purchasing arms, but there is no evidence of purchasing arms. Petitioner is in custody for the last 10 months. There are total 27 prosecution witnesses.
- [5]. Learned counsel for the petitioner Jarnail Singh submitted that challan has already been presented on 03.11.2017. Two letter pads are alleged to have been recovered from the petitioner and those letter pads bear no serial number. Offences under Sections 17, 18 and 19 of the Unlawful Activities (Prevention) Act are not attracted to the present accused as there is no allegation of harbouring. Whether petitioner is member of banned organization would be subject matter of evidence. Except two blank letter pads, there is no prima facie material to connect the petitioner with the alleged offence. Petitioner has no criminal background and no other case is pending against him.
- [6]. Learned counsel for the petitioner Ramandeep Singh @ Sunny submitted that petitioner was on bail in some previous case under Section 25 of

the Arms Act and Sections 3/5 of the Explosive Substances Act. Petitioner was called by the police and his mobile was seized and he was involved in the present case.

- [7]. Learned counsel for the petitioner Gaurav Kumar submitted that petitioner is not part of any banned organization. Petitioner has been implicated only on the basis of bank statements and only offence under Arms Act is attracted.
- [8]. As against this, learned State Counsel submitted that Gaurav Kumar is resident of Bihar whose full address is not known. He was arrested on 15.06.2017 and 9 MM pistol was recovered from him. He had given four other pistols to other coaccused. He is supplier of illegal arms to the member of banned organization. He supplied one pistol to Harvarinder Singh, one pistol to Amritpal Kaur @ Amrita, one pistol to Randeep Singh and one pistol to Parminder Singh. One pistol was recovered from Gaurav Kumar. Learned State Counsel further submitted that Sukhpreet Singh and Jarnail Singh @ Kala are of the same village. Sukhpreet Singh was named by Jarnail Singh @ Kala in his disclosure statement. Jarnail Singh @ Kala was named in the FIR who was arrested on 30.05.2017. The inter se call details with nationals foreigners have been collected by the police. Only 11 accused have been arrested so far. Accused Sukhpreet Singh received Rs.1 lac from Amandeep Singh of Germany for purchasing Arms for Gaurav Kumar. Facebook accounts of Ramandeep Singh @ Sunny and Amritpal Kaur @ Amrita were found

opened. Facebook and WhatsApp connection of accused Ramandeep Singh @ Sunny were found with others. 9 MM pistol along with 3 cartridges were recovered from Ramandeep Singh @ Sunny. Name of Ramandeep Singh @ Sunny was disclosed by co-accused Amritpal Kaur @ Amrita whose name was also disclosed in the disclosure statement of Gaurav Kumar from whom illegal weapons used to be purchased by the members of banned organization. Out of total 4 pistols, 1 pistol was recovered from Ramandeep Singh @ Sunny. The case is still at the stage of framing of charges.

- [9]. The complicity of the petitioners keeping in view the serious allegations at this stage would be determined with reference to material on record. In view of material collected by the police till date, where involvement of some foreign-nationals was also alleged, this Court does not find any plausible ground to accept prayer of the petitioner(s) for grant of regular bail.
- [10]. In view of aforesaid, at this stage, without meaning anything on the merits of the case, the prayer of the petitioners for grant of regular bail is declined. The present petitions are accordingly dismissed.
- [11]. Nothing expressed hereinabove would be construed to be an expression of any opinion on merits of the case.”

Counsel for the petitioner has argued that there is a delay in disposal of the trial and he is entitled to the concession of regular bail. It

is further submitted that as per the report submitted under Section 173 Cr.P.C., 27 witnesses are cited by the prosecution, whereas only one witness has been examined so far and, therefore, there is a delay in disposal of the trial and the petitioner is in custody since 1.5.2017.

Learned State counsel, on instructions from ASI Gurpartap Singh, has submitted that the challan was presented before the trial Court on 3.11.2017 and, thereafter, the charges were framed on 31.5.2018 and one prosecution witness has also been examined and the case is now fixed for recording four more prosecution witnesses, hence, there is no delay on the part of the prosecution. Learned State counsel further submits that some delay occurred on account of obtaining the sanction from government and, thereafter, the trial Court is proceeding with the trial and recording the evidence.

After hearing learned counsel for the petitioner as well as the learned State counsel and considering the fact that there are serious allegations against the petitioner and one pistol was recovered from him I find no ground for granting the concession of regular bail to the petitioner.

The petition is, therefore, dismissed.

(ARVIND SINGH SANGWAN)
JUDGE

February 20, 2019
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Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No