

S.No.208

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

Date of Decision:09.04.2019

1. CRM-M-17357 of 2017

Jagroshan Singh @ RoshanPetitioner

Vs.

State of PunjabRespondent

2. CRM-M-25799 of 2017

Simranjit Singh @ Kaka @ Baba BullarPetitioner

Vs.

State of PunjabRespondent

3. CRM-M-41658 of 2018

Honey Singh @ Honey @ AshuPetitioner

Vs.

State of PunjabRespondent

CORAM:- HON'BLE MR. JUSTICE RAJBIR SEHRAWAT

**Present:- Mr. J.S. Thakur, Advocate
for the petitioner (in CRM-M-17357 of 2017).**

**Mr. Rishu Mahajan, Advocate
for the petitioner (in CRM-M-25799 of 2017).**

**Mr. Vaibhav Narang, Advocate
for the petitioner (in CRM-M-41658 of 2018).**

Mr. Prabhjot Singh Walia, AAG, Punjab.

Rajbir Sehrawat, J.(Oral)

**This order shall dispose of three petitions bearing CRM-M-
17357 of 2017, CRM-M-25799 of 2017 and CRM-M-41658 of 2018.**

The prayer in these petitions filed by the petitioners is to grant bail pending trial in case FIR No.110 dated 30.04.2016 registered under Sections 302, 364, 201, 148, 149, 120B IPC and 25, 27, 54, 59 of Arms Act at Police Station Sultanwind, District Amrtisar.

Learned counsels for the petitioners have submitted that petitioners- Simranjit Singh and Jagroshan Singh are not even named in the FIR. Petitioner – Honey Singh @ Honey @ Ashu, though has been named in the FIR, yet no overt act is attributed to him towards act of commission of murder of deceased. Still further, it is submitted by the counsel for the petitioner that even as per the story put forward by the prosecution, the allegation against petitioner – Honey Singh is that he had called the deceased to the place from where he was abducted and taken in the car by the co-accused already sitting in the car. However, no evidence connecting the petitioner – Honey Singh to the crime has been collected by the prosecution even during the investigation.

So far as the petitioner Simranjit Singh is concerned, learned counsel for the petitioner has submitted that as per the case of the prosecution, allegation against him is that he was present in the way on a motor-cycle, along with the co-accused Jagroshan Singh, where the main accused had met them alongwith abducted deceased and, thereafter, killing of the deceased son of the complainant had taken place. However, to connect the petitioner – Simranjit Singh to the killing of the deceased, no evidence as such has been found by Police. It is further submitted that there is no recovery from the said petitioner. His name is included in the case only on the basis of alleged disclosure statement of the main accused -

Darshan Singh.

Same is the argument by learned counsel for the petitioner – Jagroshan Singh. It is submitted by the counsel that although the Police claims to have recovered the above-said motor-cycle from the petitioner – Jagroshan Singh, however, that motor-cycle has nothing to do with the deceased. It is the motor-cycle owned by father of the petitioner only. It is further submitted that motor-cycle, per se, is not connected with any aspect of the crime involved in this case. Therefore, mere recovery of motor-cycle belonging to his father only, is no evidence to connect the petitioner to the murder of the deceased.

Still further, it is submitted by counsels for the petitioners, jointly, that this case is totally manufactured by the prosecution, because as per the post mortem report, only three gun shots are found on the body of the deceased and as per the FSL report, all the gun shots are found to have been fired from one weapon only. The said weapon is recovered from main co-accused Darshan Singh. Therefore, the act of firing of gun shot upon the deceased, cannot, legitimately, be attributed to either of the petitioners. The Police have fabricated the story of taking the pistol by petitioners – along with the other co-accused, one by one, and then firing upon the deceased. It is further submitted that in the process, the prosecution has even forgotten that number of persons who are alleged to have fired upon the deceased, with only one pistol, exceeds even number of actual injuries found on the body of the deceased.

In the end, it is submitted by the counsel for the petitioners that

Honey Singh is in custody since 10.05.2016, petitioners – Simranjit Singh

and Jagroshan Singh are in custody since 14.08.2016. Despite the petitioners being in custody for the past about two and a half years, the trial of the case has not yet started. Even the charge has not been framed in this case. Learned counsels have further submitted that since the challan has been filed against the petitioners, therefore, the petitioners are not required for any investigation purposes. Learned counsels for the petitioners have further pointed out that there is no other case against the petitioners, except one case under Sections 365 and 379-B against one of the petitioners, namely Simranjit Singh, and in that case he is already on bail.

On the other hand, learned counsel for the State, being instructed by ASI Joginder Singh, submits that there are specific allegations against the petitioners. Simranjit Singh and Jagroshan Singh having fired upon the deceased. The other petitioner- Honey Singh had called the deceased to come to place from where he was abducted and he was seen by the eye witness to be with the main accused. Hence, all the petitioners are involved in the murder of the deceased. However, it is not disputed; that as per the investigation conducted by the Police, only one weapon has been recovered and only three bullets have been found in the body of the deceased, which matches to one weapon only, which is recovered from the co-accused of the petitioners, namely, Darshan Singh. It is also not denied that the version of the Police against the petitioners is based upon the disclosure statement of co-accused. Besides that, there is no other evidence against the petitioners, qua their participation in the crime. It is also not disputed that the petitioners are in custody since the date mentioned above

and the charge has not been framed so far, much less to speak of starting evidence of prosecution.

One more fact which deserves to be noticed here is that the present petitions are pending since the year 2017 and 2018. Since, despite long custody of petitioners, even the charge had not been framed in this case, therefore, this Court had called report from the Court below, as to why the case was not proceeding further. The report was received from the Judicial Magistrate Ist Class, Amritsar, in which it was stated that the case involves certain gangsters, who were named as the persons other than the present petitioners. A number of times, the production warrants were sent to the authorities for production of those gangsters before the Magistrate so that the case can be further committed to the Court of Sessions. However, repeatedly, the Superintendent of District Jail, Amritsar failed to comply with the orders. Hence, further proceedings in the case have been delayed. The facts stated in the report of the Magistrate, by no means, suggest that there has been any effort on the part of the present petitioners to delay the proceedings of the trial. It is surprising that the prosecution claims this to be a case of abduction and killing by a gang, despite that, the Police/ authorities have taken the case so casually. As a result, the present petitioners are languishing in jail since long; without trial.

In view of the above, but without commenting any further upon merits of the case, the above-said three petitions are allowed. It is ordered that the petitioners, namely, Jagroshan Singh @ Roshan, Simranjit Singh @ Kaka @ Baba Bullar and Honey Singh @ Honey @ Ashu be released on

bail on their furnishing bail bonds/ sureties to the satisfaction of the trial Court/ Duty Magistrate.

April 09, 2019
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(RAJBIR SEHRAWAT)
JUDGE

Whether Speaking/reasoned	Yes/No
Whether Reportable	Yes/No