

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

Date of decision: 16.05.2019

1. CRM-M-16563-2019

Rajinder Kumar @ Babbu

... Petitioner

Vs.

State of Punjab

... Respondent

2. CRM-M-13521-2019

Baljit Singh and others

... Petitioners

Vs.

State of Punjab

... Respondent

3. CRM-M-17314-2019

Jatinderveer Arora @ Jimmi

... Petitioner

Vs.

State of Punjab

... Respondent

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present: Mr. Bipan Ghai, Sr. Advocate with
Mr. V.S. Virk, Advocate and Mr. Paras Talwar, Advocate
for the petitioners (in CRM-M-16563 & 17314-2019).

Mr. B.S. Sidhu, Advocate
for the petitioner (in CRM-M-13521-2019).

Mr. Sidakmeet S. Sandhu, AAG, Punjab.

Mr. Navkiran Singh, Advocate
for the complainant.

ARVIND SINGH SANGWAN, J. (ORAL)

Prayer in these petitions is for grant of regular bail in FIR No.98 dated 03.07.2016 under Sections 295-A, 120-B IPC, registered at Police Station Dayalpura, District Bathinda.

As per the FIR, registered at the instance of complainant Gurcharan Singh, in which it is stated that he is vice-President of Gurudwara Mahil Sahib Bhagat Bhai. On 18.06.2016, at about 8.30 p.m., Rajinder Singh informed him that pages of Panj Granthi are lying spread over towards the back gate of Gurudwara i.e. in front of house of Rachhpal Singh Fauji in a narrow street. The complainant visited the spot and collected the parts of Panj Granthi.

Learned senior counsel for petitioner Jatinderveer Arora @ Jimmi has submitted that initially, the petitioner was arrested in FIR No.161 dated 20.10.2015 under Sections 295-A, 120-B IPC, registered at Police Station Dayalpura, District Bathinda and thereafter, the Judicial Magistrate 1st Class passed the following order on 22.11.2018: -

“Today accused Jatindervir Arora has produced on production warrant on his request which has been forwarded by Superintendent New District Jail Nabha and today the accused Jatindervir Arora apprised the court with regard to confession of the offence. However the undersigned has started recording the statement and while apprising the provision of Section 164

Cr.P.C. with regard to the fact that accused is not bound to make the statement under Section 161(2) Cr.P.C., then accused got recorded his statement that he has been threatened with the life threat, under these circumstances undersigned not opted to record his confession u/s 164 Cr.P.C. Let SSP, Bathinda as well as Superintendent New District Jail Nabha are directed to ensure the safety of accused Jatindervir Arora. All the accused be produced through VC on 01.12.2018. Copy of this order be sent to SSP, Bathinda.”

Learned senior counsel has argued that thereafter, statement of the petitioner Jatinderveer Arora @ Jimmi under Section 164 Cr.P.C. was recorded, in which he confessed the alleged offence and also nominated co-accused Baljit Singh, Rajvir Singh, Sukhmander Singh and Rajinder Kumar @ Babbu. It is further submitted that in fact, on account of difference of opinion about the religious belief between the petitioners and complainant side, they have been implicated in this case. It is also submitted that petitioner Jatinderveer Arora @ Simmi is in custody since 03.11.2018; challan stands presented; the investigation is complete and since the offence under Section 295-A IPC is triable by the Court of Magistrate, it will take long time in conclusion of the trial and no useful purpose will be served in keeping the petitioner behind the bars.

Learned counsel for petitioners Baljit Singh, Rajvir Singh and Sukhmander Singh has additionally argued that they were nominated on the basis of statement made by co-accused Jatinderveer Arora @ Jimmi; two other co-accused Sadhu Singh and Amarjit Singh have already been granted

the concession of regular bail by the Additional Sessions Judge, vide order dated 11.01.2019 and their case is also on similar footings as of other co-accused.

Learned counsel for petitioner Rajinder Kumar @ Babbu has submitted that the petitioner was also nominated in the case on the basis of statement of co-accused Jatinderveer Arora @ Jimmi and one of the co-accused Gulpavittar Singh @ Pavittar Singh has already been granted the concession of regular bail by this Court vide order dated 02.04.2019 passed in CRM-M-9240-2019, by passing the following order: -

“Allegations are that in conspiracy with other persons, the petitioner threw certain pages of a holy book in a bid to escalate religious tensions and outrage the religious feelings of a particular community.

Counsel for the petitioner has argued that the case is triable by the Magistrate and the petitioner has now been in custody for about four and half months and the other accused who were also charged with similar offences have been released on bail after about the same period of custody.

Learned DAG Punjab and counsel for the complainant have vehemently argued that the allegations are very serious in nature and but for the timely action by the authorities, the acts of the petitioner and his co-accused could have resulted in very grave consequences. They have, however, accepted the fact that the petitioner has been in custody for four and half months and the persons accused of similar offences have been released on

bail after the same period of custody.

In these circumstances, without commenting upon the merits of the case, and keeping in view the period of custody already suffered by the petitioner, I do not deem it appropriate to deny the concession of regular bail to the petitioner.

Bail to the satisfaction of the trial Court/Duty Magistrate.”

Learned counsel has further argued that petitioner Rajinder Kumar @ Babbu is in judicial custody since 13.11.2018 and as per version in the FIR, occurrence took place on 18.06.2016, whereas the FIR was registered on 03.07.2016, without explaining the delay of 15 days.

In reply, learned State counsel, on instructions from the Investigating Officer and assisted by learned counsel for the complainant, has however opposed the prayer for bail. It is submitted that the petitioners have committed the heinous offence, which is punishable under Section 295-A IPC and for the Sikh community, holy Shri Guru Granth Sahib is a living Guru and they have committed a serious crime at the dictum of their Guru, who is head of Dera Sacha Sauda, Sirsa.

After hearing learned counsel for the parties, considering the fact that the petitioners are in custody since 13.11.2018; maximum punishment under Section 295-A IPC is three years; offences are triable by the Court of Magistrate; investigation is complete; challan stands presented; charges are yet to be framed, therefore, it will take long time in conclusion of the trial and also considering the fact that there is a delay of 15 days in registration of the FIR, which is not explained and the petitioners are arrested, after a

supplementary statement dated 13.11.2018 i.e. after a period of two years, was recorded, these petitions are allowed and petitioners Rajinder Kumar @ Babbu, Baljit Singh, Rajvir Singh, Sukhmander Singh and Jatinderveer Arora @ Jimmi are directed to be released on regular bail subject to furnishing their bail/surety bonds to the satisfaction of the trial Court/Illaq Magistrate/Duty Magistrate.

Petitions are disposed of.

A photocopy of this order be placed on the files of other connected cases.

[ARVIND SINGH SANGWAN]
JUDGE

16.05.2019
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Whether speaking/reasoned : Yes/No

Whether Reportable : Yes/No