

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

Date of decision: 16.05.2019

1. CRM-M-16421-2019

Rajinder Kumar @ Babbu

... Petitioner

Vs.

State of Punjab

... Respondent

2. CRM-M-13529-2019

Baljit Singh and others

... Petitioners

Vs.

State of Punjab

... Respondent

3. CRM-M-17295-2019

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. Paras Talwar, Advocate
Mr. V.S. Virk, Advocate (in CRM-M-17295-2019).

Mr. G.B.S. Gill, Advocate
for the petitioner (in CRM-M-16421-2019).

Mr. B.S. Sidhu, Advocate
for the petitioner (in CRM-M-13529-2019).

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.89 dated 26.06.2016 under Sections 295-A, 120-B IPC, registered at Police Station Dayalpura, District Bathinda.

Learned counsel for the petitioners submit that the FIR was registered on the statement of one Sukhdev Singh with the allegations that he is Granthi of Gurudwara Sahib Shri Sukhmani Sahib and on 26.06.2016, he has found the pages of Sukhmani Sahib, Panj Granthi are lying scattered and with the help of sangat, he collected the same. It is stated that unknown persons have hurt the religious sentiments of Sikh community by scattering the pages and thus they have committed the offence hurting the religious sentiments.

Learned counsel for the petitioners have submitted that the petitioners were nominated on the basis of statement of co-accused Jatinderveer Arora @ Jimmi in FIR No.161 dated 20.10.2015 under Sections 295-A, 120-B IPC, registered at Police Station Dayalpura, District Bathinda and have relied upon the order dated 22.11.2018 passed by the Judicial Magistrate 1st Class, wherein Jatinderveer Arora @ Jimmi has made a statement that he is threatened with life and do not want to record his statement. The aforesaid order dated 22.11.2018 is reproduced below: -

“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 counsel have further submitted that later on, the police also recorded the statement of Mohinder Singh on 13.11.2018, which is also based on hearsay and thereafter, the petitioners were nominated and arrested on 01.12.2018; investigation is complete; challan stands presented; offences are triable by the Court of Magistrate and it will take long time in conclusion of the trial. Learned counsel have further relied upon the order dated 11.01.2019 passed by the Additional Sessions Judge, vide which two co-accused namely Sadhu Singh and Amarjit Singh have been granted the concession of regular bail in the present FIR, considering their long custody.

Learned counsel for petitioner Rajinder Kumar @ Babbu has also raised the similar arguments and stated that he is in custody since 14.11.2018 and is no more required for further investigation.

Learned senior counsel for petitioner Jatinderveer Arora @ Jimmi has argued that statement of the petitioner recorded under Section 164 Cr.P.C. was under threat as it is noticed in the order dated 22.11.2018 and it will be seen only during the trial about its admissibility. It is further submitted that the petitioner is in custody since 01.12.2018 and co-accused Gulpavittar Singh has already been granted the concession of regular bail by this Court vide order dated 02.04.2019 passed in CRM-M-9243-2019, 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 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.

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 for the last about 4/5 months; 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, 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