

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

CRM-M-17299-2019 (O&M)
Date of decision:30.05.2019

BALWINDER SINGH @ GOLA AND ANR

.....Petitioners

Versus

STATE OF PUNJAB

.....Respondent

CORAM : HON'BLE MR.JUSTICE GURVINDER SINGH GILL

Present: Mr. Nakul Sharma, Advocate
for the petitioners.

Ms. Rashmi Attri, AAG, Punjab.

GURVINDER SINGH GILL, J. (ORAL)

1. The petitioners seek grant of regular bail in case registered vide FIR No.4 dated 12.1.2019 under Sections 420, 201 of the Indian Penal Code and Section 25 of Arms Act, Police Station Cantt. Ferozepur.
2. The allegations levelled in the FIR are that a secret information was received by the police to the effect that a 12 bore gun used by accused Vicky @ Samuel etc. while committing crime pertaining to which FIR No.115 dated 7.10.2018 under Sections 302, 307, 148, 149, 120-B of the Indian Penal Code and Sections 25/27 of Arms Act, Police Station Cantt. Ferozepur is being taken by Balwinder

Singh and Inderjit Singh in a Maruti car bearing fake registration number for the purpose of throwing the said gun in a canal, so as to destroy evidence. It is further the case of the prosecution that pursuant to receipt of aforesaid information '*Nakabandi*' was held and the aforesaid two persons were apprehended and from their possession a 12 bore gun was recovered.

3. Learned counsel for the petitioners has submitted that the petitioners have falsely been implicated in the present case and that a reading of FIR No.115 dated 7.10.2018 under Sections 302, 307, 148, 149, 120-B of the Indian Penal Code and Sections 25/27 of Arms Act would show that in the said case some pistol was alleged to have been used and not a 12 bore gun and that the gun allegedly recovered from the petitioners had been planted upon the petitioners.
4. Opposing the petition, the learned State counsel has submitted that since the gun recovered from the petitioners was a licensed gun of Vicky @ Samuel, therefore, the complicity of the petitioners is evident and as such they do not deserve the concession of bail. It has however been informed that the petitioners have been in custody since 12.1.2019 and that although charges have been framed, none of the prosecution witness out of cited 16 prosecution witnesses has been examined so far.
5. Having regard to the nature of the allegations and while also noticing that there is some discrepancy inasmuch as in the FIR No.115 dated 7.10.2018 under Sections 302, 307, 148, 149, 120-B

of the Indian Penal Code and Sections 25/27 of Arms Act, Police Station Cantt. Ferozepur there is a reference with regard to use of pistol and not use of gun and while also bearing in mind that till date not even a single PW out of cited 16 PWs has been examined, although the petitioners have been behind bars since last more than 4 months, no fruitful purpose would be served by further detaining the petitioners behind bars as the conclusion of trial, in its normal course, is likely to take some time. The petition, as such, is accepted and it is ordered that petitioners be released on bail on their furnishing bail bonds/surety bonds to the satisfaction of learned trial Court/Chief Judicial Magistrate/Duty Magistrate, concerned.

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

(GURVINDER SINGH GILL)
JUDGE

30.05.2019
Gaurav Sorot

Whether reasoned / speaking? Yes / No

Whether reportable? Yes / No