

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-19535-2019

Date of decision: 21.08.2019

Dinesh Kumar @ Tinku

... Petitioner

Vs.

State of Punjab

... Respondent

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present: Mr. B.K. Saini, Advocate
for the petitioner.

Mr. Jagmohan Ghumman, DAG, Punjab.

ARVIND SINGH SANGWAN, J. (ORAL)

Prayer in this petition is for grant of regular bail in FIR No.125 dated 26.07.2016 under Sections 302, 307, 148, 149 IPC (Sections 380, 411, 450 IPC were added later on) and Sections 25/54/59 of Arms Act, registered at Police Station Sadar Amritsar, District Amritsar.

Learned counsel for the petitioner submits that the FIR was registered at the instance of complainant Kulwant Singh, brother of deceased Hardev Singh, with the allegations that on 25.07.2016 at about 9.15 in the night, he had gone to meet his brother Hardev Singh. 5-6 persons in a car and two persons on a motorcycle came out with their respective weapons and entered the eatery (Ahata) and started inquiring about sons of his brother. Thereafter, those persons started inflicting injuries with rifle and pistols on his brother. The

complainant further stated that Subham and Rohit sons of Baljinder Singh, Tinku (petitioner), Bunny sons of Ashok Kumar, Ravi, Lakhani and 2-3 unidentified persons were there. Subham was carrying a rifle on his left shoulder and a pistol in his right hand and with intention to kill, he fired a bullet shot from his pistol, which hit above the right rib of deceased Hardev Singh and he fell down. Thereafter, Subham fired another bullet shot, which hit on the stomach of Hardev Singh. The other accused also fired with their respective weapons.

Learned counsel for the petitioner further submits that later on, FIR No.219 dated 05.10.2017 under Sections 302, 392, 216, 120-B, 148, 149 IPC was registered at the instance of Kulwant Kaur, mother of Subham, with the allegations that complainant in the present case Kulwant Singh has murdered father of Subham and in that FIR, Kulwant Singh has been declared a proclaimed offender. It is further submitted that the petitioner is in judicial custody since 25.10.2016 and despite a lapse of 02 years and 10 months, the prosecution has not been able to conclude its evidence, as out of total 28 PWs, only 14 have been examined. It is also submitted that two eyewitnesses i.e. Gurpreet Singh and Mahesh Kumar have already been examined as PW13 and PW14 on 31.08.2018 and were declared hostile, as they have not supported the prosecution version.

Learned counsel for the petitioner has further submitted that the petitioner was though nominated as an accused in FIR No.26 dated 23.03.2016 under Sections 302/34 IPC, Police Station Sadar Amritsar, however, on account of lack of evidence, the Court of Additional Chief Judicial Magistrate, vide order dated 06.08.2018, has discharged him. A photocopy of this order is taken

on record.

In reply, learned State counsel could not dispute the fact regarding discharge of the petitioner in the aforesaid FIR No.26, however, submits that main accused Subham is involved in number of cases and he has absconded from the custody and was later on re-arrested and on that account, there is delay in conclusion of the trial.

Without commenting anything on merits of the case, considering the fact that the petitioner is in judicial custody for the last 02 years and 10 months; both the eyewitnesses have been declared hostile; out of total 38 PWs, only 14 have been examined so far and he has been discharged in aforesaid FIR No.26, this petition is allowed and the petitioner is directed to be released on regular bail subject to furnishing his bail/surety bond to the satisfaction of the trial Court/Illaq Magistrate/Duty Magistrate.

Petition is disposed of.

[ARVIND SINGH SANGWAN]
JUDGE

21.08.2019
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Whether speaking/reasoned : Yes/No

Whether Reportable : Yes/No