

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

CRM-M-21820-2019

Date of decision: 3.07.2019

BALJINDER SINGH

.....Petitioner

Versus

STATE OF PUNJAB

.....Respondent

CORAM : HON'BLE MR.JUSTICE GURVINDER SINGH GILL

Present: Mr. Preetinder Singh Ahluwalia, Advocate
for the petitioner.

Ms. Amarjit Kaur Khurana, DAG, Punjab.

GURVINDER SINGH GILL, J. (ORAL)

1. The petitioner seeks grant of regular bail in case registered vide FIR No.69 dated 9.12.2018 under Sections 307/34 of the Indian Penal Code and Section 25 of Arms Act, 1959 registered at Police Station Talwara, District Hoshiarpur.
2. The FIR was registered at the instance of injured/complainant Navjot Singh wherein it has been alleged that on 4.12.2018 when he was sitting in the office then at about 3:30 p.m. three young men entered his office two of whom were Harjinder Singh @ Happy and Sarabjit Singh @ Kali. The complainant alleged therein that third youth had tied a '*Patka*' on his head and was aged about 27-28

years and all three of them were carrying pistols. It is alleged that Harjinder Singh @ Happy fired at him hitting his left arm. Sarabjit Singh @ Kali is stated to have fired from his pistol hitting the inner side of left thigh of complainant. Harjinder Singh @ Happy fired another shot hitting the complainant below the left knee. The unknown youth who was carrying a pistol is also alleged to have fired on the right knee of the complainant. Harjinder Singh @ Happy is again alleged to have fired hitting below the right knee of the complainant and Sarabjit Singh @ Kali is also stated to have fired another shot hitting the inner side of right thigh.

3. Learned counsel for the petitioner has submitted that he is not named in the FIR and in fact even the FIR was lodged after consultations inasmuch as although the occurrence is stated to have taken place on 4.12.2018 and the complainant had been declared fit to make statement on 8.12.2018 but it was only on 9.12.2018 that his statement came to be recorded. It has further been submitted that the petitioner came to be nominated subsequently on the basis of an undated supplementary statement which does not find mention in any other document of the police. Learned counsel has further submitted that facts in fact show that the police has falsely implicated the petitioner inasmuch as one disclosure statement dated 21.12.2018 of co-accused Harjinder Singh @ Happy is stated to have been recorded wherein name of the petitioner was disclosed by co-accused but interestingly a perusal of the remand application dated 22.12.2018 moved by SHO Police Station Talwara seeking

extension of remand of co-accused Harjinder Singh @ Happy shows that even on 22.12.2018 the police was not aware about the name of third accused and the remand was consequently sought on this ground to interrogate co-accused Harjinder Singh @ Happy so as to seek information about the third accused.

4. Opposing the petition, the learned State counsel has submitted that since it is a case of fire arm injury and the complainant had categorically stated that three assailants fired at him, two of whom are specifically named in the FIR itself and identity of the third came to be known shortly thereafter, no case for grant of bail is made out especially since the medical evidence establishes the complainant's version regarding having received fire arm injuries.
5. I have considered rival contentions addressed before this Court. The petitioner was not initially named in the FIR and it is only two other co-accused who are specifically named in the FIR and it was mentioned that the third accused had tied a '*Patka*' on his head and was aged 27-28 years. Learned counsel has shown photocopies of disclosure statement dated 21.12.2018 made by co-accused Harjinder @ Happy wherein he is stated to have disclosed the name of the present petitioner as the third accused. However a perusal of remand application dated 22.12.2018 moved by SHO, Police Station Talwara seeking extension of remand of Harjinder Singh @ Happy shows that even on 22.12.2018 the police was not aware of the name of the third accused and his police remand was specifically being sought for interrogating him so as to elicit

information about name of third accused. The said inconsistent dates rather leave much to be explained on part of investigating agency. The petitioner has been behind bars since last more than 6 months. Bearing in mind that the petitioner was not specifically named in the FIR and that it would be debatable as to whether the discrepancy of dates in the disclosure statement and remand application is merely an inadvertent error or an attempt to fabricate evidence, in my opinion, a case is made out for release of the petitioner on bail as conclusion of trial, in its normal course, is likely to take some time. The petition, as such, is accepted and it is ordered that petitioner be released on bail on his 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

3.07.2019
Gaurav Sorot

Whether reasoned / speaking? Yes / No

Whether reportable? Yes / No