

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

219

CRM-M-38975 of 2019

Date of Decision: October 03, 2019

Samarbir Singh @ Semi

.....Petitioner

versus

State of Punjab

.....Respondent

CORAM: HON'BLE MR.JUSTICE MANOJ BAJAJ

Present: Mr. R.S. Rai, Sr. Advocate with
Mr. Karan Pathak, Advocate, for the petitioner.

Mr. Ramdeep Partap Singh, DAG, Punjab.

Mr. Preetinder Singh Ahluwalia, Advocate for the complainant.

MANOJ BAJAJ, J. (Oral)

This petition has been filed by the petitioner under Section 439 Code of Criminal Procedure for grant of regular bail in case FIR No.97 dated 19.10.2017 under Sections 302, 382, 201, 148, 149, 120-B of IPC and Sections 25/27/54 of the Arms Act, 1959, registered at Police Station Sadar Abohar, District Fazilka. The petitioner is in custody since 24.01.2018.

The above said FIR was registered on the statement of Baljit Singh, wherein it was alleged that he used to do the work of agriculture and his brother Balkaran Singh resided at Dhali Thakar Singh, Dakhil, Village Balluana. On 18.10.2017, his brother Balkaran Singh had returned from Delhi and came to Dhani in the afternoon. The complainant went to meet him and stayed with him in the night. On the next day, at about 8.30 am, Balkarn Singh along with Harpreet Singh

had gone for a walk and the complainant also went out for a walk behind them. The complainant was at a distance of about 3-4 Acres from them when Balkaran Singh and Harpreet Singh reached at turn near Tahil in his fields, then from the opposite side, one, white colored Swift Car came from which five persons came out along with weapons. Samarbir Singh @ Sammy armed with .12 bore Gun, Kulbir Singh, Gurnek Singh @ Rimpay, Gurtesnar Singh and a youth wearing Turban was armed with 315 bore gun, then Samarbir Singh extorted that lesson be taught to Balkaran Singh, then Samarbir Singh fired a shot with his .12 bore Gun, which hit in the chest of Balkaran Singh and the person wearing turban fired two shots with 315 bore gun, which hit on the head of Balkaran Singh and the other persons also fired shots with their respective weapons. Harpreet Singh ran towards another side and they also fired shots towards him as well. Balkaran Singh fell down on the ground and 4-5 persons who were also with them came out of one another car and they also fired shots while raising lalkaras, then out of fear complainant ran towards backside. After a while the accused persons also took away 32 bore pistol of Balkaran Singh and fled away along with their respective weapons from the spot. When complainant and Harpreet Singh reached near Balkaran Singh, he was found dead. It was alleged that the motive behind the occurrence was the land dispute between Balkaran Singh and Samarbir Singh @ Sammy and his brother Kulbir Singh which was pending before the Courts and decided on 25.09.2017 in favour of Balkaran Singh.

Learned Senior Counsel for the petitioner contends that as per the eye witness Baljit Singh, the petitioner was present at the spot and fired gun shots upon victim. According to him, the said version was completely changed and as per final report submitted before the Court, the petitioner was indicted on the strength

of hatching criminal conspiracy, punishable under Section 120-B IPC. He submits that admittedly the petitioner was not present on the spot when the alleged occurrence took place. It is further contended that the co-accused, who were similarly situated, were granted the concession of anticipatory bail. The attention of the Court is invited to concession extended to co-accused Gurnek Singh and Gurteshwar Singh on the ground that these two persons were not in India when the alleged occurrence took place. He submits that considering the custodial period of the petitioner and the case set up by the prosecution, which contains this material variation, further detention of the petitioner may not be justified.

Mr. Preetinder Singh Ahluwalia, Advocate, appears and filed his power of attorney. He opposes the prayer on the ground that the petitioner was the master mind and it was at his instance the occurrence took place. He submits that under the orders of this Court, the Special Investigating Team was constituted which had found that the petitioner was not present at the spot at the time of commission of offence, but his involvement is found in the crime as the assailants were in touch with the petitioner even prior to the occurrence and after commission of the offence as well. The details, according to him, are contained in the final report submitted by the SIT.

On the other hand, Ld. State counsel assisted by ASI Gurmail does not dispute this fact that originally the petitioner was shown to be a one of the assailant, however, subsequently, it was found that he was not present at the spot. It is also not disputed that two other accused, who were initially stated to be present at the spot were granted the concession of pre-arrest bail as on the date of occurrence they were not in India. He further submitted that out of 43 witnesses only two have been examined.

Considering the above and the fact that trial is likely to consume considerable time, this Court is of the opinion that further detention of the petitioner may not be justified who is not involved in any other case of similar nature. Therefore, without meaning any expression of opinion on the merits of the case it is ordered that the petitioner be released on regular bail subject to his furnishing requisite bail bonds/surety bonds to the satisfaction of the trial Court, concerned.

October 03, 2019
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[MANOJ BAJAJ]
JUDGE

Whether speaking/reasoned :
Whether Reportable :

Yes/No
Yes/No