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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-52625 of 2019
Date of decision: December 16, 2019

Sukhjinder Singh

.....Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MR. JUSTICE MAHABIR SINGH SINDHU

Present: Dr. Anmol Rattan Sidhu, Senior Advocate with
Mr. Raghav Gulati, Advocate for the petitioner.

Mr. V.G. Jauhar, Senior DAG Punjab.

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MAHABIR SINGH SINDHU, J

Present petition has been filed under Section 439 of the Code of Criminal Procedure, 1973 (for short 'Cr. P.C.') for grant of bail pending trial to the petitioner, in FIR No.203 dated 13.11.2018, under Sections 307, 34 of the Indian Penal Code, 1860 (for short 'IPC') and Sections 25, 27 of the Arms Act, 1959, registered at Police Station Chattiwind, District Amritsar Rural.

Mr. Rahul Kumar Prashar, Advocate appears, files *vakalatnama* on behalf of the complainant and the same is taken on record.

In brief, the prosecution case is that complainant-Harinder Singh alleged that on 08.11.2018, he along with his friend Inderjit Singh and Manpreet Singh had gone to Noida to meet their friend Karanbir Singh by fortuner car bearing registration No.PB-46M-0067. Coming back, on 11.11.2018, when they reached near DPS Manawala, at 9:15 P.M., then one fortuner car crossing their car gave a severe turn, but they saved their car. The said car was being driven by the petitioner who was earlier known to Inderjit Singh as there was some money dispute between them, which was

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got compromised with the interference of the respectables. Further alleged that petitioner after reaching Dream City stopped his car in front of their car and accused started abusing them. When the complainant and his friends came out of car to ask the reason, then petitioner drove his car inside the Dream City and at that time, one Innova car bearing registration number PB-02-CQ-8500 was already parked there and lights were on. Thereafter, petitioner while abusing the complainant took out his pistol and gave fire shots. In the meantime, Tejinder Singh and one unknown person also came out of the Innova car and he also fired two shots at them from his pistol. When petitioner was firing, one bullet hit the thigh of the complainant, due to which blood started oozing out and he fell down on the ground. The cause of enmity is that although. Inderjit Singh had compromised the matter with the petitioner, but still grudge is alleged against him.

It is contended by the learned Senior counsel for the petitioner that he fired the shot in order to save himself and moreover, the weapon used by the petitioner was licensed. Also contended that there is a cross-version registered against the complainant side also at the instance of the petitioner. Further contended that so far as the investigation qua the petitioner is concerned, the same is complete and even his passport has also been surrendered before the Investigating Officer.

The above factual position is duly acknowledged by the learned State counsel, on instructions from SI Harmeet, however, he opposed the prayer of the petitioner.

Learned counsel for the complainant has also vehemently opposed the petition and submitted that as a matter of fact, it is the petitioner who is the aggressor, and the weapon used in the crime was not

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the licensed one, rather illegal. He has also submitted that the cross-version has been registered after a considerable delay.

Heard both sides and perused the paper-book.

As per the allegations of the petitioner in his complaint, which has been converted into DDR, he fired shot in his defence. It is not in dispute that the place of occurrence is in front of the Society gate, where concededly, the petitioner is residing. Thus, *prima-facie*, at this stage, in the opinion of this Court, petitioner cannot be termed as an aggressor; and the same would be subject to the adjudication by the learned trial Court after considering the evidence by both sides. Since the investigation is already over, there is no allegation that petitioner will hamper the trial in any manner; and trial is likely to take sufficient long time, therefore, his further incarceration would not serve any purpose.

In view of the above, this petition is allowed. Petitioner is ordered to be released on bail, in this case, on his furnishing adequate bail bonds and surety bonds to the satisfaction of learned trial Court/Duty Magistrate concerned.

The petitioner shall fully co-operate with learned trial Court without seeking any unnecessary adjournments.

The above observations may not be construed as an expression of opinion on the merits of the case.

(MAHABIR SINGH SINDHU)
JUDGE

December 16, 2019
mahavir
Whether speaking/ reasoned: Yes/No
Whether Reportable: Yes/No

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