

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

CRM-M No.35765 of 2018 (O&M)

Date of Decision: 05.02.2019

Chamkaur Singh

....Petitioner

Versus

State of Haryana

....Respondent

BEFORE :- HON'BLE MRS. JUSTICE DAYA CHAUDHARY

Present:- Mr. R.S. Rai, Sr. Advocate
with Mr. K.D.S. Hooda, Advocate
for the petitioner.

Mr. Chetan Sharma, A.A.G., Haryana.

DAYA CHAUDHARY, J.

CRM No.42709 of 2018

This application has been moved for placing on record the final report under Section 173 Cr.P.C along with documents as Annexure P-6 (colly) and also for exemption from filing certified copy of the same.

Criminal Misc. Application is allowed as prayed for and Annexure P-6 (colly) with the application is taken on record.

CRM-M No.35765 of 2018

Petitioner-Chamkaur Singh has filed the present petition under Section 439 Cr.P.C for grant of regular bail to him in case FIR No.345 dated 27.08.2017 registered under Sections 145, 146, 150, 151, 152, 153, 121, 121-A, 216 and 120-B of IPC at Police Station Sector 5, Panchkula during pendency of the trial.

Learned counsel for the petitioner submits that the petitioner

has falsely been implicated in the case, whereas, he was not involved. He has been implicated on the basis of disclosure statement made by co-accused. The name of the petitioner was not mentioned even in the disclosure statement. The meeting was held on 17.08.2017 and the petitioner was in Punjab on that date as is clear from the tower location of the mobile. He was not reflected in any photograph or video.

As per case of the prosecution, the FIR was registered on the basis of statement of Sanjeev Mahajan, Incharge, Dainik Bhaskar, Tricity, stating that he was present at Hafed Chowk, Panchkula and clicked the photographs of the alleged occurrence of violence and published in Daily Newspaper Dainik Bhaskar dated 26.08.2017.

Learned counsel for the petitioner submits that the petitioner was arrested on 13.09.2017 with the aid of Section 120-B of the Indian Penal Code. The story of the prosecution does not appear to be believable as number of persons, who were standing there, have been made as accused. The petitioner has been shown to have participated in the meeting held on 17.08.2017, where the entire alleged conspiracy to commit rioting was planned. Learned counsel also submits that the prosecution has relied upon an affidavit of one Vikas Kumar, Head Constable, who is stated to be the gunman of Baba Ram Rahim and statements recorded under Section 164 Cr.P.C of Anil Kumar and Rajesh Kumar. Learned counsel also submits that as per case of the prosecution, an amount of Rs.1.25 crore was given to the petitioner to manage the affairs after passing an adverse order by the trial Court. Out of the said amount, a sum of Rs.25 lacs was with Aditya Insan, Rs.25 lacs with Pawan Insan, Rs.25 lacs with Gobhi Ram and Rs.18 lacs were with Ram Singh, Chairman for managing and providing

facilities to the followers. The petitioner spent a sum of Rs.7 lacs for making arrangements of stay of the office bearers of the Dera. An amount of Rs.25 lacs was recovered from the petitioner.

Learned counsel also submits that the family members of the petitioner were forced to arrange money while the petitioner was in custody. Some of the amount was lying in the house of the petitioner for the treatment of his father, who was suffering from cancer. Some of the amount was arranged by son of the petitioner from various relatives and also by withdrawing from his account. After arrangement of the amount, the same was handed over to the local police. Said amount has been shown to be recovered from the petitioner. Learned counsel further submits that it cannot be said to be the case under Sections 121 and 121-A of the IPC as the alleged incident cannot be termed as a war against Government of India. The petitioner is in custody since 13.09.2017. Challan has been presented and still it may take time as number of accused are involved. The bail petition filed by the petitioner has been dismissed without any sufficient reason. The petitioner was present near the place of occurrence as he went to see his daughter. Learned counsel also submits that father of the petitioner was suffering from cancer and he died in the month of August only. Learned counsel also submits that the petitioner was not a Member of the Core Committee or 45 Members' Committee.

Learned State counsel has opposed the submissions made by learned counsel for the petitioner on the ground that not only the petitioner was active in instigating the followers but was involved in decision making. The huge amount was recovered from the petitioner which was to be distributed to the persons, in case, any adverse order was to be passed in

case of Dera Chief. An amount of Rs.24,80,500/- was recovered from the basement of House No.435, Sector 12-A, Panchkula. He also submits that the petitioner was named in the second disclosure statement made by co-accused Anil. An amount of Rs.1.25 crore was given to the petitioner for making arrangement in involving the Dera followers for taking participation, in case, any adverse order was to be passed in case of Dera head. He also submits that the petitioner was named in the statement of Honeypreet. He was President of the Panchkula District and an amount of Rs.24,80,500/- was recovered from him.

Heard the arguments of learned counsel for the parties and have also perused the contents of the FIR; disclosure statement and other documents available on the file.

The allegations against the petitioner are that he was the person, who was involved in planning of the conspiracy and was having huge amount, which was to be distributed to various persons, who were followers of the Dera. The amount was recovered from the petitioner. However, every efforts have been made by learned counsel for the petitioner to explain that some of the amount was withdrawn from the bank under the threat of the police and some was arranged from here and there but no such document/details has been shown to this Court as to from whom, the said amount was borrowed. Whether the petitioner was under threat of any police official or any other person, can be tested during trial. In case, any recovery has been effected in pursuance of disclosure statement then petitioner cannot take this plea that he has been implicated on the basis of disclosure statement.

In the present case, although the petitioner has been shown to

be implicated on the basis of disclosure statement but connecting evidence is there and he cannot claim parity with co-accused, who have been released on regular bail. A huge amount which was to be distributed to the dera persons for causing violence was recovered from the petitioner. The petitioner was not only at the helm of the activities, plannings and distribution of amount to the persons to be involved in the violent activities. There are other accused also, who are in custody and some of them are still to be arrested. For hatching conspiracy, it is not necessary to be present at a particular place.

Accordingly, the present petition, being devoid of any merit, is hereby dismissed.

05.02.2019
gurpreet

(DAYA CHAUDHARY)
JUDGE

Whether speaking/reasoned

Yes/No

Whether Reportable

Yes/No