

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

212

CRM-M-17427-2020 (O & M)

Date of Decision : 16.11.2020

JOGRAJ SINGH ALIAS JOGA

.....Petitioner

Versus

STATE OF PUNJAB

.....Respondent

CORAM: HON'BLE MR. JUSTICE ARUN KUMAR TYAGI

Present : Mr. Navkiran Singh, Advocate
for the petitioner.

Mr. Sarabjit Singh Cheema, Asstt. A.G., Punjab
for the respondent-State.

ARUN KUMAR TYAGI, J. (Oral)

(The case has been taken up for hearing through video conferencing.)

CRM-28025-2020

For the reasons mentioned in the application, the same is allowed and the status report dated 09.09.2020 filed in CRM-M-19011 of 2019, bail order dated 18.09.2020 of co-accused Mukesh Kumar @ Rohit @ Lala and detailed chart of cases of the petitioner are taken on record as Annexures A-1 to A-3, respectively and the petitioner is exempted from filing the certified/typed copies of the same.

Registry is directed to tag the aforesaid documents at appropriate place and paginate the paper book.

CRM-14929-2020

For the reasons mentioned in the application the same is allowed and the petitioner is exempted from filing process fees and court fees. The same be filed within seven days from resumption of normal working of the Court.

CRM-M-17427-2020

The petitioner has filed the present petition under Section

439 of the Code of Criminal Procedure, 1973 for grant of regular bail in case FIR No. 185 dated 27.07.2018 registered at Police Station Rama Mandi, District Jalandhar Commissionerate under Sections 307 and 120-B of the Indian Penal Code, 1860 (for short 'the IPC') and Section 25 of the Arms Act, 1959 to which Sections 302, 201, 212, 216 of the IPC and Section 3(2) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities), Act, 1989 were added later on.

The above said FIR was registered on statement of Pradeep Kumar. In his statement Pradeep Kumar alleged that his cousin Ajay Kumar @ Tona used to go everyday for practice to Curl Gym Kaki Village Rama Mandi. On 27.07.2018 Ajay Kumar @ Tona had gone to the above said Gym and at about 05.30 PM he went there to pick up him. While he (Pradeep Kumar) was standing outside the gym, at about 07.10 PM Ajay Kumar @Tona and his friend Amandeep Singh came down from the gym. Two boys with muffled faces came on motorcycle and fired four gun shots on Ajay Kumar @Tona which hit him on the left side of the head, in the abdomen and on the left leg. Ajay Kumar @ Tona died later due to injuries caused. During investigation, Pradeep Kumar made supplementary statement that Jograj Singh @ Joga (petitioner) had given threat to kill Ajay Kumar @ Tona and got him murdered through members of his gang. The police arrested Jograj Singh @ Joga, Jagdeep Jagga, Mukesh Kumar Lala, Gurvinder Singh Baba, Arjun Sehgal and Mukul Shergill and on completion of the investigation charge-sheeted them.

The petition has been opposed by the respondent-State in terms of reply filed by way of affidavit of Harsimrat Singh PPS, Assistant Commissioner of Police (Central), Jalandhar.

I have heard learned Counsel for the petitioner and learned State Counsel and gone through the record.

Learned Counsel for the petitioner has argued that the petitioner was in custody at the time of alleged occurrence and did not commit any offence. The petitioner has been falsely implicated in the case. Baljinder Singh has alleged to have seen to you fleeing away on motorcycle after the occurrence. Kuldeep Singh Manak is alleged to have told the police that on 27.07.2018 he had gone to pay obeisance to Peer

near the bus stand where he overheard Jagdeep Singh Jagga, Mukesh Lala, Arjun Sehgal, Mukul Shergill and Gurvinder Singh Baba talking between them that they had received phone call from Jograj Singh Joga to kill Ajay Kumar Tona. There is no call details record regarding any such call. His own disclosure statement and disclosure statement of co-accused Jagdeep Singh Jagga are of no evidentiary value. There is no direct or circumstantial evidence against the petitioner. Trial is likely to take long time and no useful purpose will be served by keeping the petitioner in custody. The petitioner cannot be denied bail merely on the ground of his involvement in other cases. Therefore, the petitioner may be ordered to be released on regular bail.

On the other hand, learned State Counsel has argued that the petitioner got Ajay Kumar @ Tona murdered through members of his gang. The petitioner is involved in 15 other cases. In view of the gravity of accusation, the petitioner does not deserve the concession of regular bail. Therefore, the petition may be dismissed.

Admittedly, the petitioner was in custody at the time of alleged occurrence and the case involves debatable question regarding his involvement by making telephone call from the jail to his co-accused Jagdeep Singh Jagga, Mukesh Lala, Arjun Sehgal, Mukul Shergill and Gurvinder Singh Baba for committing murder of Ajay Kumar @ Tona. The question of grant of bail to the petitioner has to be considered in view of the facts and circumstances of the case and nature of accusation and prima facie case/evidence against the petitioner and his involvement in other cases does not by itself disentitle him to grant of bail. Keeping in view the facts and circumstances of the case, the nature of accusation and evidence against the petitioner and also the fact that the trial is likely to take long time due to restrictions imposed to prevent spread of COVID-19 but without commenting on merits of the case, I am inclined to extend the concession of regular bail to the petitioner.

Therefore, the petition is allowed and the petitioner is ordered to be released on regular bail on furnishing of requisite bail bonds to the satisfaction of the trial Court/Chief Judicial Magistrate/Duty Magistrate concerned.

However, the petitioner is granted regular bail subject to

the condition that he shall not commit any similar offence after his release on bail and in case of commission of similar offence by him after his release on bail, his bail in the present case shall also be liable to be cancelled on application to be filed in this regard.

16.11.2020
kavneet singh

(ARUN KUMAR TYAGI)
JUDGE

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No