

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

Criminal Appeal No.D-315 of 2020 (O & M)

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Malkit Singh @ Sher Singh @ Shera Versus National Investigation Agency

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Present:- Mr. Bhanu Pratap Singh, Advocate, for the appellant.

Mr. Sukhdeep Singh Sandhu, NIA Special Prosecutor.

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Heard through Video Conferencing.

The instant appeal has been preferred by the appellant against order dated 02.06.2020 passed by the court of Special Judge, NIA, Punjab, SAS Nagar (Mohali), whereby the application moved by him under Section 439 Cr.P.C. for grant of bail in case RC No.20/2019/NIA/DLI registered under Sections 304, 153A, 120-B IPC; Sections 13, 16, 18, 20, 23 of Unlawful Activities (Prevention) Act, 1967; and Sections 4 & 5 of the Explosive Substances Act, 1908, has been dismissed.

As per the prosecution case, on 05.09.2019, an explosion took place in the outskirts of village Pandori Gola, District Tarn Taran, as a result of which, two accused namely Bikkar Singh @ Vikram @ Vicky and Harpreet Singh @ Happy died at the spot and one accused namely Gurjant Singh sustained injuries.

During the course of investigation, it emerged that the present appellant was in contact with the aforesaid accused persons and was an active member of pro Khalistan terrorist gang, and conspired with co-accused to carry out terrorist attack by causing explosion.

Learned counsel for the appellant has contended that the appellant is in custody since 17.09.2019 and has been falsely implicated in the present case. The appellant has not been named in the FIR and no recovery was ever effected from him. He has been arrayed as accused with the aid of Section 120-B IPC. He is suffering from various ailments for the last few years, for which, he had been referred to Guru Nanak Dev Hospital, Amritsar and also, to PGI, Chandigarh.

On the other hand, learned counsel for the respondent has opposed the application by submitting that during investigation, it has been found that the applicant was member of Pro-Khalistan terrorist gang formed by Massa Singh. Seeing the seriousness of the case, NIA took up the investigation of the case. Total eight persons were arrested as their incriminating role in the instant case emerged. One accused person is still at large. Chargesheet has already been filed and more than sufficient evidence has been collected against the accused. The investigation conducted so far in the instant case establishes the role of the appellant in the commission of offence.

We have heard learned counsel for the parties and with their assistance, gone through the record.

The impugned order passed by the trial court clearly establishes that the appellant was in constant touch with co-accused and an active member of Pro Khalistan terrorist gang and was associated with other members of terrorist gang with intention to further its activities and after hatching a conspiracy, planned to carry out terrorist attack by causing explosion. It has also come on record that the appellant collected bomb from his co-accused and kept in his possession and further tested it. These facts

are evident from his confessional statement dated 23.12.2019 in the present of District Magistrate.

So far as the medical ailments are concerned, order of learned Special Judge, NIA, Punjab is very specific and elaborate vide which proper arrangements for the medical care has been made. The said order reads as under :-

“.....keeping in view the medical condition of applicant/accused Malkit Singh @ Shera, as projected by his counsel, Superintendent, Central Jail, Amritsar is directed to make necessary arrangements for getting the accused Malkit Singh treated from a specialized doctor at Guru Nanak Dev Hospital, Amritsar and in case required treatment is not available at Guru Nanak Dev Hospital, Amritsar, then necessary arrangements be made for getting the accused treated from PGI, Chandigarh.”

With the aforesaid discussion, we find no merit in the instant appeal and the same is hereby dismissed.

(Jaswant Singh)
Judge

(Sant Parkash)
Judge

July 06, 2020
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