

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

Crl. Misc. M-19005 of 2020

Date of decision: 27.08.2020

214

Gurdev Singh

....Petitioner(s)

Versus

State of Punjab

...Respondent(s)

CORAM: HON'BLE MR. JUSTICE G.S.SANDHAWALIA

Present: Mr. JPS Sidhu, Advocate,
for the petitioner.

Mr. Hitten Nehra, Addl. A.G., Punjab.

Mr. A.S. Sekhon, Advocate,
for the complainant.

(Proceedings are conducted through video
conferencing as per instructions).

G.S.SANDHAWALIA, J. (Oral)

The petitioner seeks regular bail in a petition filed under Section 439 Cr.P.C. in FIR No. 0209 dated 16.11.2019 under Sections 302, 307, 34, IPC and Sections 25/27 Arms Act, P.S. Kotkapura, District Faridkot.

Counsel for the petitioner submits the petitioner is 73 years of age and is retired as Inspector from Food and Supplies Department, Punjab. He was arrested on 16.11.2019 and remained in custody for 6 months and he was granted interim bail on 18.05.2020 for 4 weeks keeping in view the Covid-19 pandemic in Crl. Misc. M-12481 of 2020 and the directions were issued that he should file regular bail application. The same has accordingly been dismissed vide order dated 15.06.2020 and this Court had directed him to surrender before the Trial Court vide order dated 20.07.2020. He surrendered before the Trial Court on 23.07.2020. It is in

such circumstances, counsel submitted that the investigation is as such complete as challan was filed on 10.02.2020 and submits that the charge has not been framed since 18.02.2020 and now the case is fixed for 08.09.2020.

Mr. Nehra and Mr. Sekhon have vehemently opposed the bail application on the ground that the petitioner was present with his son Gagandeep Singh, who had opened fire upon the deceased Mandeep Singh, brother of the complainant Sukhdeep Singh with his licensed revolver. It is submitted that the petitioner being the father had instigated the son to open fire on the other persons and, therefore, he has been rightly nominated as an accused.

A perusal of the FIR would go on to show that it was the case of the complainant that he alongwith his brother Mandeep Singh and one Randeep Singh had gone to collect the brokerage money of Rs.5,50,000/- from the rice mill of the petitioner and his son on account of receiving a call on Randeep Singh's telephone number. The gate was closed of the rice mill but thereafter Gagandeep Singh and the petitioner came outside by opening the gate. A *lalkara* was given by the petitioner that as they were demanding brokerage money they should be taught a lesson. Resultantly, the son of the petitioner opened fire with his revolver, which hit the deceased on his back. 4-5 shots were also fired on the others who ran away in the fields. Resultantly, the motive as such was attributed on account of the non-payment of Rs.5,50,000/- which was the brokerage amount on account of sale and purchase of a *kothi* by Gagandeep Singh. The regular bail as such has been dismissed on the ground that the accused were arrested and the revolver alongwith 4 empty cartridges and one live cartridge was recovered.

Therefore, keeping in view the gravity of the offence, it was held that it is

not a fit case for grant of benefit of regular bail.

In such circumstances, once the main accused as such who is the licensed weapon holder is the one who fired the shots and, therefore, it would be a moot question as to whether the petitioner can be held liable under the provisions of Section 34 IPC only on account of being the father and standing alongwith his son and whether he had instigated him in the nature and manner as put forward by the complainant side. The FIR was admittedly lodged at 22.57 hours on 16.11.2019 whereas the incident had taken place at 5.30 p.m. The revolver is stated to be a licensed weapon in the name of the son of the petitioner namely Gagandeep Singh, whose interim bail already stands dismissed in Crl. Misc. M-12433 of 2020 on 15.05.2020.

Resultantly, this Court is of the opinion that the petitioner being a senior citizen also and suffering from heart ailment since the year 2016 as per Annexures P-2 and P-3 and aged around 73 years old, he is entitled for the benefit of regular bail as no other overt act has been attributed to him.

Accordingly, the petition is allowed. The petitioner be released on bail to the satisfaction of the Illaqa Magistrate/Duty Magistrate, Faridkot. Needless to say that anything said herein is only for the purpose of deciding the present bail application and this Court has not opined on the merits of the case.

27.08.2020
shivani

(G.S. SANDHAWALIA)
JUDGE

Whether reasoned/speaking
Whether reportable

Yes/No
Yes/No