

CRM-M-19994-2020

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

(PROCEEDINGS THROUGH V.C.)

CRM-M-19994-2020

Date of Decision: August 7th, 2020

Gurvir Singh @ Gora Dhaliwal

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASIH

Present Mr. Nishan Singh, Advocate
for the petitioner.

Mr. B.S. Sewak, Addl. A.G., Punjab.

Mr. Gurvinder Singh Aulakh, Advocate
for the complainant.

AUGUSTINE GEORGE MASIH, J. (ORAL)

Petitioner has approached this Court for grant of regular bail by filing this petition under Section 439 of the Code of Criminal Procedure, 1973, in FIR No.143, dated 20.10.2018, registered at Police Station Dialpura, District Bathinda, under Sections 302, 324, 323 and 34 of the Indian Penal Code.

It is the contention of the learned counsel for the petitioner that the allegations which have been made in the FIR against the petitioner are based on hearsay evidence alone. Even the alleged eye-witness and the injured have not specified any of the injuries which could be attributable to the petitioner. His contention is that out of total 24 prosecution witnesses

cited by the prosecution, only 04 have been examined till date. Assertion has also been made that the material witnesses stand already examined. No useful purpose would be served by keeping the petitioner in custody since the trial is not likely to conclude in near future. He, therefore, prays for grant of concession of regular bail to the petitioner.

On the other hand, learned counsel for the State as well as counsel for the complainant have vehemently argued that there are total four accused, out of which two have been arrested and two are yet to be arrested. It is asserted that the examination-in-chief of eye-witness, namely, Sukhmander Singh @ Mandri (PW-3) is yet not completed. Assertion has also been made that there are specific allegations against the petitioner with regard to his involvement as the petitioner has been named in the FIR. The motive is also clear as has been highlighted in the FIR and therefore, concession of bail be not granted to him.

I have considered the submissions made by the learned counsel for the parties and with their assistance have gone through the pleadings as well as the statements of the witnesses.

A perusal of the statement of PW-3 would show that the assertion of the counsel for the petitioner appears to be correct as in the statement of eye-witness, namely, Sukhmander Singh @ Mandri, there is no specific attribution to the petitioner with regard to the injury suffered by the injured. It is a general statement which has been made by him. Assertion of the counsel for the complainant that cross-examination of the said witness is still to be carried out as the examination-in-chief is yet to be completed,

would not effect the prosecution version in any manner. The case of the prosecution stands mentioned in the examination-in-chief of the witness. The cross-examination, if any, would primarily be at the behest of the counsel for the accused and therefore, nothing can be said to be prejudiced to the cause of the prosecution in such non cross-examination of the witness. That apart, petitioner is in custody since 18.11.2018 and out of total 24 prosecution witnesses, only 04 have been examined. The trial is not likely to conclude in near future especially in the light of the prevailing circumstances.

In view of the above, this criminal miscellaneous petition is allowed and the petitioner is ordered to be released on bail subject to his furnishing bail and surety bonds to the satisfaction of the trial Court/Chief Judicial Magistrate/Duty Magistrate, Bathinda.

Any observation made herein-above shall have no bearing on the merits of the case during the trial in any manner.

August 7th, 2020
Harish

(AUGUSTINE GEORGE MASIH)
JUDGE

Whether speaking/reasoned:	Yes/No
Whether Reportable:	Yes/No