

In the High Court of Punjab and Haryana, at Chandigarh

1. Criminal Misc. No. M- 23508 of 2019 (O&M)

Amandeep Singh

... Petitioner(s)

Versus

State of Haryana

... Respondent(s)

AND

2. Criminal Misc. No. M- 26242 of 2019 (O&M)

Gagandeep alias Gagan

... Petitioner(s)

Versus

State of Haryana

... Respondent(s)

Date of Decision: 07.09.2020

CORAM: Hon'ble Mr. Justice Anil Kshetarpal.

Present: Mr. Vineet Chaudhary, Advocate
for the petitioner (In CRM-23508-2019).

Mr. Anmol Rattan Sidhu, Senior Advocate
with Mr. Harlove S. Rajpur, Advocate
for the petitioner (In CRM-M-26242-2019).

Mr. Chetan Sharma, Assistant Advocate
General, Haryana for the respondent.

Anil Kshetarpal, J.

By this order, two separate petitions, i.e. Criminal Misc. No. M-23508 of 2019 and Criminal Misc. No. M-26242 of 2019, filed by Amandeep Singh and Gagandeep alias Gagan shall stand disposed of.

The petitioners have prayed for grant of bail pending trial in a criminal case arising from FIR No. 41 dated 08.05.2017 registered under Section 120-B, 302 & 216 IPC and Section 25 of the Arms Act, 1959 at Police Station Mansa Devi Complex, Panchkula, District Panchkula.

In brief, the case of the prosecution is that the deceased's mother lodged the FIR with the allegations that she along with her deceased son went to Shiv Mandir, Mahadev Pura, Panchkula to pay obeisance and when they came out of the temple and were about to board their car, then two boys with muffled faces fired at her son who, on being hit, fell down near the car and thereafter, the aforesaid two boys got in a waiting white coloured car in which some other persons were already present and fled away. The registration number plate of the car was of yellow colour but she could not note down the registration plate number of the vehicle. Her son was moved to the PGI, Chandigarh where he succumbed to injuries. She suspects that the attack has been carried out by the same persons who were responsible for attacking her son and his friend Akhil Gera in the month of July, 2016. She has further stated that a few days ago also there was firing at her son Amit Sharma in Ram Leela Ground in phase 8, S.A.S. Nagar Mohali. She also has a suspicion that Sonu Shah, Gagan of village Naya Gaon and Surjit Bouncer are involved in this occurrence.

The Petitioner-Gagandeep is in detention since 15.05.2017, whereas the petitioner-Amandeep Singh is in custody since 18.05.2017.

On 15.06.2020, while hearing the bail petition of Gagandeep alias Gagan, the following order was passed by this Court:-

“The applicant/petitioner has remained in detention in

the present case, since 15.05.2017.

2. *At the outset, it may be observed that from the available material on record, no direct involvement of the petitioner, at least in the actual occurrence in which the victim Amit was shot at, is made out. There is, of course, a story of his being the master mind behind the aforesaid killing by way of having engaged co-accused Amandeep Singh, Manish and Laddi for doing the job on account of previous grudge. This also is a matter of record that the petitioner was arrested shortly after lodging of the FIR on the basis of the suspicion expressed by the complainant in her complaint. Be that as it may; mere suspicion cannot form the basis for an indefinite detention of any person, and actual tangible material to support such allegations would be called for at a later stage.*

3. *It has been emphasized on behalf of the State that the petitioner was arrested on account of his being named in the FIR, and thereafter, he himself made the disclosure statement regarding the conspiracy to kill the victim by engaging Amandeep Singh and other co-accused for that purpose. The alleged disclosure statement of the petitioner is otherwise corroborated by the disclosure statement of Amandeep Singh (Annexure P-2). But the bottom line is that neither of these two statements is admissible in evidence, except to the extent of recovery of the weapon of offence from the accused Amandeep Singh in terms of Section 27 of the Evidence Act. But rest of the*

story regarding the conspiracy behind the shooting cannot be relied upon merely from these disclosure statements, unless any of the accused persons giving these statements is first made an approver from the State side.

4. *Faced with this, Ld. State Counsel seeks a short opportunity to draw attention of the Court to any actual admissible material which has been or still can be led into evidence from the prosecution side, possibly by way of statements under Section 161 of the Cr.P.C. of as yet unexamined witnesses, or that part of the evidence given by the complainant or other witnesses examined so far which would establish involvement of the petitioner by means of material admissible in evidence, since it is a matter of record that he has by now already remained in detention for more than 3 years.*

5. *On request of Ld. State Counsel, adjourned to 26.06.2020”*

This Court has once again heard the learned counsel for the parties.

Learned State counsel has very fairly admitted that the prosecution does not have any plausible answer to the questions posed by this Court in the order dated 15.06.2020. However, submitted that the petitioners are involved in the gang war as they have formed a group of persons who work as bouncers. He, hence, prayed that the petitioners may not be granted bail.

It will be significant to note that the allegations against

Amandeep Singh- the petitioner in Criminal Misc. No. 23508 of 2019, are that he carried out survey of the area, arranged the vehicle & a country made pistol. He was also driving the vehicle at the time of occurrence, It has further been pointed out that he is involved in two more criminal cases.

Two co-accused, namely Satnam Singh alias Kale and Dalbir Singh have also been granted bail vide orders dated 17.02.2018 and 02.04.2018, respectively.

Keeping in view the fact that the petitioners continue to be in detention since May, 2017 and the conclusion of the trial is likely to consume more time on account of the restricted functioning of the Courts due to spread of the novel corona virus, this Court is of the considered view that further incarceration of the petitioners would not be appropriate. Both the petitioners have already suffered detention in this case for a period more than three years. Hence, both the petitions are allowed and the petitioners are ordered to be released on regular bail on furnishing of their bail/surety bonds to the satisfaction of the learned trial Court/Chief Judicial Magistrate/Duty Magistrate.

**(Anil Kshetarpal)
Judge**

07, September , 2020
“DK”

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