

IN THE HIGH COURT OF PUNJAB & HARYANA, CHANDIGARH

Criminal Miscellaneous No.M-27569 of 2020

Date of Decision: September 29th, 2020

Gurdeep Singh

..... PETITIONER(S)

VERSUS

State of Punjab

..... RESPONDENT(S)

. . .

CORAM: HON'BLE MR. JUSTICE SANT PARKASH

. . .

PRESENT: - Mr. R.S. Cheema, Senior Advocate, with Mr. Arshdeep Singh, Advocate, for the petitioner.

Ms. Bhavna Gupta, Deputy Advocate General, Punjab.

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Sant Parkash, J

The aforesaid presence is being recorded through video conferencing since the proceedings are being conducted in virtual court.

This present petition has been filed under Section 439 Cr.P.C. for grant of regular bail to the petitioner in case FIR No. 130 dated 21.10.2015 under Sections 302, 307, 34 of IPC (Section 201, 218, 120-B, 109, 166-A, 194, 195 of IPC added latter on) and Sections 25 & 27 of Arms Act, registered at Police Station, Bajakhana, District Faridkot.

The petitioner was serving as SI/SHO at Police Station, City, Kotkapura on 14.10.2015. Some incidents of sacrilege in District Faridkot took place during the months of June, September and October of 2015,

which lead to protest by the general public. On 12.10.2015, mass protests were organized at Kotkapura and Behbal Kalan, District Faridkot. The protesters resorted to large scale violence against the police and public property, resulting in injuries to dozens of police personnel and damage to the property. Such incidents resulted into registration of FIR No.192 dated 14.10.2015, Police Station, Kotkapura (recorded by petitioner) and FIR No.129 dated 14.10.2015, Police Station, Bajakhana (recorded by ASI/SHO Amarjit Singh). Two persons were also killed in the incident of Behbal Kalan.

The Director General of Police, Punjab, vide order dated 14.10.2015, constituted a Special Investigating Team (SIT) for investigation of FIR No.129 dated 12.10.2015, comprising Iqbalpreet Singh Sahota, IPC, Director Bureau of Investigation; Amar Singh Chahal, IPS, DIG, Ferozepur Range, Ferozepur and R.S. Khatra, DIG, Bathinda Range. The SIT, on the basis of a subsequent incident, recommended registration of FIR No.130 dated 21.10.2015 (Annexure P-1) against the policy party headed by Charanjit Singh, SSP, Moga, for incidence of violence at Behbal Kalan on the morning of 14.10.2015.

Aggrieved by the conduct of investigation, the petitioner filed CWP No.17459 of 2019 seeking quashing of FIR No.129 dated 12.10.2015 and raised objections against Kunwar Vijay Partap Singh regarding his partisan role in the investigation. The next of hearing in the aforesaid writ petition is 09.11.2020.

Learned counsel for the petitioner has contended that the petitioner was posted as Station House Officer at Police Station, City, Kotkapura on 14.10.2015. He was informant of FIR No.192 dated

14.10.2015, Police Station, City, Kotkapura. There is no allegation or evidence to the effect that petitioner was not at station at Kotkapura on 14.10.2015. SIT was constituted with a motive to divert the investigation. Two Inquiry Commissions were constituted. The first Commission was headed by Justice Jora Singh (Retd.) which tendered its report at the time when there was change of guard in the State. The Congress led Government appointed a second Commission, headed by Justice Ranjit Singh (Retd.).

Learned counsel further stated that petitioner was summoned without any justification at Ropar by the officials working under Kunwar Vijay Partap Singh, IG, OCCU/Member SIT, on 04.06.2020, who was annoyed with the petitioner and wanted him to make favourable statements for implicating the higher officers in the police hierarchy. The implication of the petitioner in the present FIR was the result of well planned conspiracy to keep him in further detention and to wreak vengeance as he had filed one CWP No.17459 of 2019 and two representations dated 05.06.2020 and 13.07.2020, respectively, to the DGP regarding manhandling and humiliation caused to him by the Investigating Agency.

Learned counsel further contended that Satinder Singh, SSP, being member of SIT, conducted investigation in FIR No.130 and filed a comprehensive report under Section 173 Cr.P.C., citing as many as 93 witnesses but in the entire report, there was not any iota of involvement or connection of the petitioner. None of the witnesses examined by SIT uttered any word about the petitioner. The prosecution suddenly came with the list of six persons namely, Prabhdeep Singh, Sarabjit Singh, Amandeep Singh, Karamjit Singh, Amritpal Singh and Nirmal Singh who as per the prosecution were eye-witnesses of the occurrence and suffered statements

showing the presence and involvement of the petitioner at the spot. All these statements were fabricated to justify the unwarranted arrest of petitioner.

Learned counsel further submitted that all the co-accused of the petitioner have been admitted to bail. Charanjit Singh, SSP; Pardeep Singh, Inspector; Bikramjit Singh, SP; and Amarjit Singh, SI are on regular/ anticipatory bail, and thus he also deserves the concession of bail, in as much as, there is no allegation against him.

Per contra, learned State counsel has opposed the bail petition on the ground of seriousness of offence. Investigation in the matter is still going on. The investigating Agency recorded statements of eye-witnesses of the occurrence, namely Prabhdeep Singh, Sarabjit Singh, Amandeep Singh, Karamjit Singh, Amritpal Singh and Nirmal Singh, who suffered statements showing the presence and involvement of the petitioner at the spot. Two persons namely Bhagwan Singh and Gurjeet Singh died in the alleged incident and several others received serious gun-shot injuries.

State counsel further submitted that investigation of the instant case is being carried out as per procedure and first challan has been presented on 24.04.2019 in the court of competent jurisdiction, against Charanjit Singh Sharma, the then SSP, Moga. The present petitioner has been arrayed as accused in the case during the course of investigation. The investigation conducted so suggests the role of petitioner in both the cases of firing at Kotkapura and Behbal Kalan. The petitioner has been charge-sheeted in FIR No.129, Police Station, Bajakhana and FIR No.192, Police Station, City, Kotkapura and now the petitioner has been arrested in the instant case/FIR No.130, Police Station, Bajakhana in Behbal Kalan firing on 21.07.2020 as per procedure on production warrant.

I have heard counsel for the parties and perused the record.

Admittedly and evidently, the petitioner was posted as SI/SHO at Police Station, City, Kotakpura on 14.10.2015. Some incidents of sacrilege took place in District Faridkot in the months of June, September and October 2015. On account of organizing mass protests by the general public resorting to large scale violence against the police and public property, petitioner registered FIR No.192 dated 14.10.2015 at Police Station, Kotakpura. Another FIR No.129 dated 14.10.2015, Police Station, Bajakhana, was recorded by ASI/SHO Amarjit Singh. There is no denial of the fact that two persons were killed in the incident of Behbalkalan.

It has further emerged from the record that on the recommendation of SIT constituted for investigating FIR No.129 dated 14.10.2015, FIR No.130 dated 21.10.2015 was registered against the police party headed by Charanjit Singh, SSP, Moga, regarding incidents of violence at Behbalkalan on 14.10.2015. Concededly, after threadbare investigation of FIR No.130 dated 21.10.2015, report under Section 173 Cr.P.C., citing as many as 93 witnesses had already been filed. In the report, there is no whisper against the present petitioner and there was no evidence till that date against him. It is further evidently clear that the present petitioner had filed CWP No.17459 of 2019 levelling allegations of biased investigation and for transfer of the matter to CBI, and the matter is still pending. The filing of two representations dated 05.06.2020 and 13.07.2020 by the petitioner to the DGP, Punjab, regarding his manhandling and torture at the hands of SIT, is also not in dispute.

Taking into consideration the totality of circumstances, this Court is of the considered view that the present petitioner who is in judicial

custody in the present case, deserves the concession of regular bail. The very basis of his involvement is the statements of alleged five witnesses recorded during the course of further investigation being conducted. The statements of those five witnesses were supplied to the Court in a sealed cover and the Court has perused the same. Even if the entire set of allegations levelled against the petitioner and gathered during the course of investigation are taken to be gospel truth, it would be revealed that it is the mere alleged presence of the petitioner at the time of occurrence having taken place without being attributed any specific allegation of firing or causing injury to anyone. As discussed earlier, there was no whisper against the petitioner in the entire report under Section 173 Cr.P.C. filed in the Court, citing 93 witnesses. The main accused against whom the present FIR was registered, was Charanjit Singh, SSP, Moga, who is already on bail. The remaining named accused in the present FIR are also on regular/anticipatory bails. The present petitioner is in judicial custody and is not required at all for any further investigational purposes.

In view of the aforesaid discussion, the present petition is allowed and petitioner is ordered to be released on bail, subject to his furnishing bail/surety bonds to the satisfaction of trial court/Chief Judicial Magistrate/Duty Magistrate concerned.

(Sant Parkash)
Judge

September 29th, 2020
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Whether Speaking/ Reasoned:
Whether Reportable:

Yes/ No
Yes/ No