

CRM-M-29650-2020

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-29650-2020

Date of Decision: October 1st, 2020

Jagsir Singh @ Lakha 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 petitioner was arrested on 18.11.2018 and is in custody since then. Out of the 24 witnesses which have been cited by the prosecution, only 4 have been examined till date. The allegations against the petitioner are neither specific nor spelt out. Even the eye-witness has not specifically attributed any of the injuries to any of the accused. There are general statements which are given by the four witnesses, who have been examined by the

prosecution and because of the prevalent circumstances, when the Courts are working in a restricted mode, the trial is not proceeding. Continuation of the petitioner in custody would not serve any purpose and therefore, the petitioner be granted the concession of regular bail especially when similarly placed co-accused, namely Gurvir Singh @ Gora Dhaliwal, has been granted the concession of bail by this Court vide order dated 07.08.2020 passed in CRM-M-19994-2020, titled as 'Gurvir Singh @ Gora Dhaliwal Versus State of Punjab'.

Counsel for the State, on the other hand, opposes the prayer made by the petitioner by asserting that gruesome murder has been committed by the petitioner along with three others, out of which two have been arrested and are facing trial, whereas other two are still not arrested. He asserts that the petitioner does not deserve the concession of bail. He, however, could not dispute the period of custody as also the stage of the trial. Reference to the case of co-accused Gurvir Singh @ Gora Dhaliwal, who has been granted the concession of bail, also has been acknowledged by the counsel for the State.

Counsel for the complainant has sought to carve out a distinction between the case of Gurvir Singh @ Gora Dhaliwal, who has been granted the benefit of regular bail by this Court vide order dated 07.08.2020, by asserting that petitioner had an intention to commit the crime because of the earlier enmity between them. He, therefore, asserts that the petitioner does not deserve the concession of bail.

I have considered the submissions made by the learned counsel for the parties and with their assistance have gone through the records of the

case.

This Court is of the considered view that the case of the petitioner is covered on all four corners by the order dated 07.08.2020 passed by this Court in CRM-M-19994-2020, titled as 'Gurvir Singh @ Gora Dhaliwal Versus State of Punjab' (Annexure P-6). The contention of the learned counsel for the complainant that there was motive, which is attributable to the petitioner, would not make much of a difference as there is no specific injury which has been attributed to the petitioner as in the case of co-accused Gurvir Singh @ Gora Dhaliwal. The trial is not likely to conclude in near future as out of total 24 prosecution witnesses, only 4 have been examined till date. The prevailing circumstances caused by the pandemic relating to COVID-19 has restricted the Courts functioning to a great extent, because of which the trials are not proceeding. The petitioner, therefore, deserve the concession of bail being similarly placed as co-accused Gurvir Singh @ Gora Dhaliwal.

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.

(AUGUSTINE GEORGE MASIH)
JUDGE

October 1st, 2020
Harish

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