

211

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M No.28375 of 2019 (O&M)

Decided on: 16.12.2020

Gurbhaj Singh @ Bhaj Singh

....Petitioner

Versus

State of Punjab

....Respondent

CORAM: HON'BLE MR JUSTICE ARVIND SINGH SANGWAN

Present : Mr. P.B.S. Goraya, Advocate
for the petitioner.

Mr. Joginder Pal Ratra, DAG, Punjab.

Mr. Sandeep Wadhawan, Advocate
for the complainant.

ARVIND SINGH SANGWAN, J. (Oral)

Prayer in this petition is for grant of regular bail to the petitioner under Section 439 of the Code of Criminal Procedure (in short 'Cr.P.C.') in cross-case i.e. DDR No.26 dated 12.12.2014 for offence punishable under Sections 302, 307, 324, 452, 427, 148, 149 of the Indian Penal Code, 1860 (in short 'IPC') and 25, 27 of the Arms Act registered in FIR No.261 dated 12.12.2014 under Sections 302, 307, 324, 452, 427, 148, 149 IPC and 25, 27 of the Arms Act at Police Station Lopoke, Amritsar (Rural), District Amritsar.

Counsel for the petitioner has relied upon the order dated 24.08.2015 passed in CRM-M No.12051 of 2015, vide which the similarly situated co-accused of the petitioner namely Makhtool Singh, was granted the concession of bail by passing the following order:-

“Learned counsel for the petitioner submits that no injury has been attributed to the petitioner. Although the

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allegation levelled against the petitioner was that, he was armed with a sword, but no sword injury was found on the person of the deceased. Mere presence of the petitioner at the time and place of occurrence will not ipso facto make him the accused. He concluded by submitting that since the prosecution evidence has just started, conclusion of trial will take some time. He prays for allowing the present petition.

On the other hand, learned counsel for the State, on instructions from SI Tajinder Singh, Police Station Lopoke, District Amritsar, submits that the petitioner was armed with a deadly weapon. His presence at the time and place of occurrence has been duly established on record. In such a situation, petitioner would be equally liable for the commission of crime. He prays for dismissal of the present petition.

Having heard the learned counsel for the parties and after careful perusal of the record of the case, this Court is of the considered opinion that in the peculiar facts and circumstances of the case, petitioner has been found entitled for bail pending trial. It is so said because it is a matter of record that no injury has been attributed to the petitioner. His mere presence at the time and place of occurrence would not dis-entitle the petitioner at least for the concession of bail pending trial. Since the prosecution evidence has just started, conclusion of trial will also take some time.”

Counsel for the petitioner has further submitted that even the petitioner was shown to be armed with sword but no injury is attributed to him and the petitioner is in custody for about 02 years and till date, the charges have not been framed and therefore, the trial is not proceeding before the trial Court.

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Counsel for the State, on instructions from the Investigating Officer and assisted by counsel for the complainant, has submitted that the petitioner was declared as proclaimed offender in the year 2014 and was arrested in the year 2018. It is further submitted that there are 03 more proclaimed offenders, who are yet to be arrested and on that account, the trial has delayed.

Counsel for the State, however, could not dispute the role of the petitioner as per the version of the DDR/FIR. Lastly, it is submitted that some of the other accused Sahib Singh, Sardool Singh, Jaspal Singh, Gurjit Singh @ Lada, Bawa Singh, Gurpreet Singh @ Gurmeet Singh have also been granted the concession of regular bail vide orders dated 07.10.2015, 24.08.2015, 30.10.2015, 13.10.2015 and 20.07.2016 passed in CRM-M Nos.33525, 33615, 10267, 35938, 34130 of 2015 and No.20725 of 2016.

Without commenting anything on merits of the case, considering the fact that no specific role is attributed to the petitioner and some of the co-accused of the petitioner have already been granted the concession of regular bail by this Court and also in view of the fact that the trial is yet to commence; the petitioner is in custody for about 02 years; the custodial interrogation of the petitioner is not required and the conclusion of the trial will take some time due to COVID-19 situation, this petition is allowed and the petitioner is directed to be released on bail subject to his furnishing bail bonds and 02 local sureties with heavy amount, to the satisfaction of the trial Court/Illaqa Magistrate/Duty Magistrate.

However, it will be open for the prosecution to apply for

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cancellation of bail of the petitioner, in case he is found involved in any other case or misusing the concession of bail, in any manner.

(ARVIND SINGH SANGWAN)
JUDGE

16.12.2020

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