

IN THE HIGH COURT OF PUNJAB AND HARYANA

AT CHANDIGARH

Criminal Misc. No.M-28557 of 2019

Date of Decision: 26.11.2020

Amandeep Singh @ Babbu

...Petitioner (s)

Versus

State of Punjab

...Respondent(s)

CORAM:- HON'BLE MR. JUSTICE HARI PAL VERMA

Present:- Mr. D.S. Sobti, Advocate
for the petitioner.

Mr. Sukhbeer Singh, A.A.G., Punjab.

HARI PAL VERMA, J. (Oral)

The matter has been taken up for hearing through video conferencing due to outbreak of COVID-19.

Prayer in this petition filed under Section 439 of the Code of Criminal Procedure, 1973 is for grant of regular bail to the petitioner in FIR No.87 dated 21.05.2016 under Sections 302, 307, 427, 148 and 149 IPC and Sections 25 and 27 of the Arms Act registered at Police Station Cantonment, Amritsar Police Commissionerate.

Learned counsel for the petitioner has argued that two eyewitnesses namely Gurpreet Singh, who is complainant in the case, and Navdeep Sharma have been examined in the case and they have not supported the allegations against the petitioner. The other two eyewitnesses are proclaimed offenders and trial in the case has not been concluded

despite the fact that challan was presented on 20.08.2018. Thus, neither the complainant nor the eyewitnesses have supported the case of the prosecution. Rather, they have stated that the fireshot was given by Gurjit Singh which hit Gurbir Singh @ Veeru on the face near his eye. He has submitted that as against the 59 witnesses cited by the prosecution, only 13 witnesses have been examined in the case. The petitioner is in custody since 18.09.2017. He has further submitted that in all other pending cases, as detailed in the short affidavit dated 21.11.2020 filed by Mr. Dev Dutt, PPS, Assistant Commissioner of Police, West, Amritsar City, the petitioner is on bail. He has referred to the statement of eyewitness PW-4 Navdeep Sharma, who in his examination-in-chief has submitted that the petitioner, who was produced in Court through video conferencing, was not present with other accused persons and has not participated in commission of crime in any manner.

Learned State counsel has filed the custody certificate of the petitioner through email and on the strength of the custody certificate as well as on instructions from ASI Sukhwant Singh, has submitted that the petitioner was arrested in the case on 23.05.2018. However, he is fair enough to submit that the petitioner is on bail in all the cases registered against him.

I have heard learned counsel for the parties.

Admittedly, the complainant Gurpreet Singh has been examined in the case as PW-2. In his statement, he has stated that the fire shot was given by Gurjit Singh which hit Gurbir Singh @ Veeru on the face near his eye and after firing the gunshot on the car of the complainant,

the accused Gurjit Singh and other unidentified persons ran away from the spot in their cars with their respective weapons. The complainant has further stated that he has not recorded the name of the petitioner-accused along with other co-accused in the FIR. He even did not identify the petitioner when he was present in Court. Similar statement has been made by other eyewitness Navdeep Sharma, who has been examined as PW-4. He has also stated that the petitioner, who was produced in Court through video conferencing, was not present along with other accused persons and has not participated in commission of crime in any manner. He has denied that he has mentioned the name of the petitioner in his statement recorded before the police. As regards the other FIRs registered against the petitioner, he is stated to be on bail. As per the custody certificate, the petitioner is in actual custody of 2 years and 6 months and as against the 59 witnesses cited by the prosecution, only 13 witnesses have been examined in the case. Noticing that neither the complainant Gurpreet Singh nor the eyewitness Navdeep Sharma have supported the case of the prosecution *qua* the petitioner and considering the fact that trial in the case is not likely to be concluded in near future due to Covid-19 pandemic, despite there being a direction by this Court to the trial Court to conclude the prosecution evidence within three months from the date of receipt of certified copy of order dated 07.01.2020, this Court deems it appropriate to release the petitioner on regular bail.

Accordingly, the present petition is allowed and the petitioner is admitted on regular bail, subject to furnishing of his bail bonds/surety bonds to the satisfaction of trial Court/Duty Magistrate.

However, it is made clear that the observations made hereinabove shall not construe as expression of any opinion on the merits of the case. The petitioner shall not influence the witnesses in any manner.

November 26, 2020
AK

(HARI PAL VERMA)
JUDGE

Whether speaking / reasoned?

Yes / No

Whether reportable?

Yes / No