

IN THE HIGH COURT OF PUNJAB AND HARYANA,
AT CHANDIGARH

220

CRM-M-46309 of 2019

Date of decision : 13.01.2020

Gurwinder Singh

... Petitioners

Versus

State of Punjab

.. Respondent

CORAM : HON'BLE MR.JUSTICE GURVINDER SINGH GILL

Present : Mr.N.S.Dadwal Advocate
for the petitioner.

Mr.Saurabh Khurana, DAG, Punjab.

Gurvinder Singh Gill, J. (Oral)

1. Petitioner has approached this Court seeking grant of regular bail in case, FIR No.13 dated 31.01.2019 under Sections 394, 452, 336, 148, 149, 34 IPC and 25, 27 of Arms Act, 1959, registered at Police Station Ajitwal, District Moga.

2. The FIR was registered at the instance of Smt. Rajni Chawla wherein it has been alleged that on 31.1.2019 when she was present in her shop then at about 05:30 p.m., two Hindu gentlemen came inside her shop and one of them who was brandishing a pistol, pointed the same towards her and demanded cash, upon which there were arguments between them. It is further alleged therein that the said persons opened fire in the shop and one of the shots hit on the glass of the counter in the shop. Upon alarm being raised, the said persons went out of the shop and sat on a black coloured motorcycle on which their third companion was sitting and all three of them made good their escape on the said motorcycle.

3. When the aforesaid matter was taken upon on 05.11.2019, the

following order was passed:-

“The SSP, Moga, would get filed an affidavit of a gazetted officer, stating therein as to how the petitioner has been connected with the crime in question, with the ASI present in court to assist the learned State counsel, submitting that there were 6 persons involved, but with the FIR itself showing that there were only 3 person involved.

Adjourned to 12.12.2019.

A copy of this order be given tot he learned State counsel under signatures of the Reader of the Bench.”

4. Pursuant to the aforesaid directions, an affidavit of Shri Manjeet Singh, PPS, Deputy Superintendent of Police, Nihal Singh Wala, District Moga on behalf of respondent No.1-State has been filed. Para 7 of the said affidavit reads as follows :-

“That on 13.03.2019 motor cycle used in occurrence involved in this case was recovered from the possession of petitioner u/s 27 of Indian Evidence Act and offence u/s 379/411 IPC have been added in this case. Identification parade was got conducted on 14.03.2019 and complainant and Jaspreet Singh (witness) had identified the accused Vicky and accused Sukhjinder Singh @ Kaka and Gursimrat Singh have been identified by Rakesh Kumar s/o Madan Lal r/o Ajitwal and petitioner was identified by Gurjit Singh @ Thakar Singh r/o Ajitwal.”

5. A perusal of the aforesaid para 7 shows that the complainant has identified three accused to be Vicky, Sukhjinder Singh @ Kaka and Gursimrat Singh whereas the present petitioner is stated to have been identified by Gurjit Singh @ Thakar Singh. As per FIR, there is no reference to the presence of the aforesaid Gurjit Singh @ Thakar Singh so as to enable him to identify the petitioner. In any case even as per FIR, it is only three persons who were present at the spot.

6. Although, the presence of the petitioner is sought to be explained by the learned State counsel on the ground that some disclosure statement of

the petitioner has been recorded wherein he disclosed that on the day of occurrence, he was driving the motorcycle in question and when the said motorcycle broke down, then he arranged for a car and all the accused went away on car but this Court finds that the petitioner has not been identified by the complainant.

7. The petitioner has been behind bars since the last more than 10 months. In these circumstances, further detention of the petitioner will not serve any useful purpose. The petition, as such, is accepted and it is ordered that petitioner be released on bail on his furnishing bail bonds/surety bonds to the satisfaction of learned trial Court/Chief Judicial Magistrate/Duty Magistrate, concerned.

8. It is however, clarified that none of the observations made above shall be taken to be an expression on merits of the main case.

[GURVINDER SINGH GILL]
JUDGE

13.01.2020
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Whether speaking/reasoned	:	Yes/No
Whether Reportable	:	Yes/No