

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH
211) CRM-M-3798 of 2021 (O&M)
Date of Decision: 05.02.2021
Avtar Singh ...Petitioner
Versus
State of Punjab ...Respondent

CORAM: HON'BLE MR. JUSTICE AMOL RATTAN SINGH

Present:- Mr. K.S. Dhillon, Advocate, for the petitioner.
Mr. Ramdeep Partap Singh, DAG, Punjab

AMOL RATTAN SINGH, J. (Oral)

Case heard by video conferencing.

By this petition, filed under the provisions of Section 439 of the Cr.P.C, the petitioner seeks the concession of 'regular bail', upon FIR no.232, dated 03.09.2019, having been registered at Police Station Islamabad, District Amritsar, alleging therein the commission of offences punishable under Sections 307, 506, 148, 149, 120-B of the IPC.

Learned counsel for the petitioner points to the order of this court passed on 16.11.2020 in the case of Gurmeet Singh and Bikramjeet Singh, upon them having filed CRM-M-Nos-36234 of 2020 and 36235 of 2020.

The said order has been annexed as Annexure P-8 with the petition, which reads as under:-

“These petitions have been filed under the provisions of Section 439 of the Cr.P.C. seeking 'regular bail' for the petitioners in case FIR No.232, dated 03.09.2019, registered at Police Station Islamabad, District Amritsar (Rural), for the alleged commission of offences punishable under

Sections 307, 148, 149 and 506 of the IPC read with Section 120-B thereof (with offences under Sections 52 and 52-A of the Prisons Act, 1894, added later on).

Learned counsel for the petitioners in these cases submits that the petitioners are no differently placed than other co-accused who have already been admitted to bail by this court vide various orders passed, as have been annexed with the petitions, one of them having been passed in CRM-M-10785-2020, titled 'Karamjeet Singh @ Karma versus State of Punjab', that order is reproduced hereinbelow :-

“All cases listed today have been taken up for hearing by way of video conferencing because of the situation existing due to the Covid-19 Pandemic.

This petition has been filed under the provisions of Section 439 of the Cr.P.C. for grant of 'regular bail' to the petitioner in case FIR no.232 dated 3.9.2019, registered at Police Station Islamabad, Police Commissionerate, Amritsar, for the alleged commission of an offence punishable under Section 52 of the Prisons Act, 1894, as also for the alleged commission of offences punishable under Sections 307, 120-B, 148, 149 and 506 of the IPC (added subsequently).

Learned counsel for the petitioner submits that though the petition earlier filed by the petitioner, i.e. CRM-M-46538 of 2019, was dismissed by this court (this Bench) on 6.11.2019, the petitioner has been in custody now for almost 9 months on account of the FIR in question, with a co-accused similarly placed having been admitted to bail by this very Bench on 6.3.2020, such coaccused being Harmanjit Singh @ Harman, who had filed

CRM-M-5976 of 2020.

He further submits that all injuries received by the parties concerned who had scuffled in jail, are similar in nature and consequently the petitioner deserves to the concession of bail, now at least.

Mr. Dhuriwala, learned Sr.DAG, Punjab, on the other hand submits that there are three other criminal cases registered against the petitioner, though upon query he states that it would seem that the petitioner has been admitted to bail in those cases as per the orders annexed along with this petition itself.

Keeping in view the fact that the petitioner has been in custody in the present FIR for a sufficiently long time now, with no serious injury attributed to him on any person, this petition is allowed, with the petitioner ordered to be admitted to bail upon his furnishing adequate bail and surety bonds to the satisfaction of the learned trial court/CJM/Duty Magistrate concerned.”

Upon query to learned State counsel, who has otherwise fairly submitted that as per his instructions as regards the present case, the petitioners in these petitions are not placed any differently to the other petitioners who have already been admitted to the bail, with no injury specifically attributed to any of the petitioners as regards the commission of an offence punishable under Section 307 IPC, however, he submits that as regards the petitioner in CRM-M-36234-2020 (Gurmeet Singh), there are seven other criminal cases registered against him.

As regards the petitioner in CRM-M-36235-2020 (Bikramjit Singh), one other criminal case stands registered against him.

Though otherwise petitioner Gurmeet Singh may not have been

entitled to the concession of bail in view of his criminal antecedents, however, looking at the fact as regards the present FIR, he is not differently placed from others who have already been admitted to the bail with there being no other specific injury possibly a 'free fight' having taken place in the Jail premises, without making any comment on the actual merits of the cases, both these petitions are allowed, with the petitioners ordered to be admitted to bail on furnishing adequate bail bonds/surety bonds to the satisfaction of the trial Court/Chief Judicial Magistrate/Duty Magistrate, concerned.

It is made absolutely clear that all the above observations made in these cases are wholly in the context of petitions filed seeking the concession of bail, and as regards the trial, naturally that will proceed strictly on the basis of the evidence led.”

Today, upon query to the learned State counsel as regards the stage of the trial, he submits that the '*challan*' has been presented to the competent court, with the charge still to be framed. As regards the role of the petitioner as compared to the other co-accused who have been granted bail, he could not deny that the petitioner is no differently placed to such co-accused, with him submitting that as a matter of fact they are all collectively alleged to have attacked another group of prisoners within the jail.

That being so, with the petitioner having been in custody for the past more than one year and 4 months, without making any comment on the actual merits of the case, the present petition is allowed, with the petitioner ordered to be admitted to bail, upon his furnishing adequate bail and surety

bonds to the satisfaction of the trial court/CJM/Duty Magistrate concerned.

05.02.2021
vcgarg

(AMOL RATTAN SINGH)

JUDGE

Whether reasoned/speaking: Yes

Whether reportable: No