

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-5112-2021

Date of Decision : 16.03.2021

Gurpreet Singh

...Petitioner

Versus

State of Punjab

....Respondent

Coram : Hon'ble Mr. Justice B.S. Walia

Present : Mr. Jasdev Singh Mehndiratta, Advocate for the petitioner.

Mr. Bhupender Beniwal, AAG, Punjab.

Mr. Premjit Singh Hundal, Advocate for the complainant.

B.S. Walia, J. (VC)

1. Case is being taken up for hearing through Video Conferencing due to Covid-19 pandemic.

2. Prayer in the petition under Section 439 Cr.P.C. is for grant of regular bail to the petitioner in cross case registered vide DDR No. 25 dated 27.02.2020 under Sections 307, 506, 148, 149 IPC and Sections 25 & 27 Arms Act at Police Station Bhikhiwind, District Tarn Taran in FIR No. 022 dated 19.02.2020, registered under Sections 307, 341, 323, 506, 148, 149 IPC and Sections 25 & 27 Arms Act at Police Station Bhikhiwind, District Tarn Taran (Section 307 stands deleted from FIR No. 022 dated 19.02.2020).

3. Learned counsel for the petitioner contends that as per the FIR, the petitioner was going along with his wife Simran Kaur in Swift Car bearing No. PB46-D-7718 to get medicines and was being followed by his Uncle Gurudev Singh on a motorcycle and at around 11.30am,

When they reached near Maari Bohar Singh Wali, six persons riding on three motorcycles came from the side of Bhikhiwind out of whom two pillion riders were holding 12 bore rifles in their hands while one was holding a pistol in his hand. One motorcycle was being driven by Lakhwinder Singh s/o Mahil Singh resident of Tara Singh and Inderjit Singh s/o Balwinder Singh resident of Village Wan Tara Singh was the pillion rider and was holding a pistol in his hand. Second motorcycle was being driven by an unknown person and pillion rider was Rana and he was holding 12 bore gun in his hand. On third motorcycle, two unknown persons were riding whom the complainant did not know but could identify on seeing them again. The said unknown persons stopped their motorcycle ahead of the car of his nephew Gurpreet Singh, thereafter, Rana fired a straight shot towards the driver with his 12 bore rifle with an intention to kill but the fire shot hit on the windscreen. Thereafter, Rana again opened second fire but it did not work having missed. In the meantime, Gurpreet Singh came out of the car while Inderjit Singh alighted from the motorcycle and fired a shot towards Gurpreet Singh with his pistol with an intention to kill him which hit on his stomach and before he could fire again, Gurpreet Singh caught handle of pistol of Inderjit Singh and both grappled. In the process, Rana hit on the head and shoulders of Gurpreet Singh with butt of the rifle and in the *melee* Inderjit Singh fired a shot which hit his own stomach. Thereafter, Inderjit Singh called Rana to pick him up and made him sit on the motorcycle of Lakhwinder Singh behind the rider after which Rana picked up the pistol lying on the ground and thereafter, all the above said persons fled

away from the spot alongwith their respective weapons and vehicles. Thereafter, the complainant put his nephew Gurpreet Singh in the car and shifted him to Civil Hospital, Sur Singh where the doctor after giving him first aid referred him to Guru Nanak Dev Hospital, Amritsar.

4. Cause of dispute was stated to be that Inderjit Singh s/o Balwinder Singh had solemnized love marriage with Harpreet Kaur i.e. sister of Gurpreet Singh about 1 and ½ months ago but had thereafter turned her out from his house and dropped her at Village Wan Tara Singh and in respect of the same, a complaint had been lodged by the complainant party against Inderjit Singh at Police Station Khalra whereupon the police had raided the house of Inderjit Singh on many occasions but he was not found at his home and that Inderjit Singh had asked Gurpreet Singh on many occasions to withdraw the complaint on threat of elimination but on refusal by Gurpreet Singh to withdraw the complaint, Inderjit Singh carried the aforesaid grudge and accordingly attacked Gurpreet Singh along with unknown persons.

5. Learned counsel contends that although FIR No. 022 dated 19.02.2020 was got registered under Sections 307, 341, 323, 506, 148, 149 IPC and Sections 25, 27 Arms Act, 1959 at Police Station Bhikhiwind, District Tarn Taran (Section 307 deleted later on) by the complainant against Inderjit Singh, said Inderjit Singh registered a cross case by way of DDR No. 25 dated 27.02.2020 under Sections 307, 506, 148, 149 IPC and Sections 25, 27, 54/59 Arms Act at Police Station Bhikhiwind, District Tarn Taran.

6. Learned counsel contends that while injuries suffered by the complainant in DDR No. 25 dated 27.02.2020 have been explained by

explained the injuries inflicted on the petitioner in the DDR. Secondly, learned counsel contends that although Section 307 of the IPC has been deleted from the FIR yet the petitioner also sustained a bullet wound on his stomach and the same is so recorded in order dated 06.07.2020 passed in CRM-M-15932-2020 i.e. petition filed by the complainant for regular bail in which it was contended that the petitioner in the instant case had also received gunshot injury but the same was simple in nature as the bullet had merely grazed his stomach. Learned counsel further contends that the case is in the nature of version and cross-version on account of falling apart of a runaway marriage of the petitioner's sister with the complainant-Inderjit Singh and the complainant Inderjit Singh having abandoned the petitioner's sister and a complaint in respect thereto having been made by Gurpreet Singh to the police and raids being conducted by the police to arrest him and said Inderjit Singh not being apprehended and asking the petitioner to withdraw the complaint and eventually attacking the petitioner along with other unknown persons.

7. Learned counsel contends that both sides have received injuries and although Section 307 has been deleted from FIR No. 022 dated 19.02.2020 registered against the complainant yet the petitioner also received injury in the stomach and the question as to who was the aggressor and whether the right of self-defence was exercised or had been exceeded, is a matter to be considered in the trial but the petitioner has been in custody since 23.11.2020, investigation is complete, challan has been filed on 20.02.2020, charges are yet to be framed, therefore, no useful purpose would be served by keeping the petitioner in custody

especially as the trial is likely to take considerable period of time to conclude besides complainant in FIR No. 022 dated 19.02.2020 was released on bail vide order dated 06.07.2020 in CRM-M-15932-2020 and is also medically fit.

8. In the light of the position noted above and after taking into account all aspects of the matter as also that the case is in the nature of version and cross-version, injuries were sustained on both sides, complainant in the instant case has already been released on bail vide order dated 06.07.2020, is medically fit and the petitioner is in custody since November, 2020, investigation has been completed and challan filed, the instant petition under Section 439 Cr.P.C. is allowed and the petitioner is ordered to be released on regular bail during the pendency of the trial provided he is not required in any other case and subject to his furnishing bail bonds/surety to the satisfaction of the learned trial Court/CJM/Duty Magistrate. The petitioner shall also comply with the conditions contained in Section 437(3) Cr.P.C. However, nothing stated hereinabove shall be construed as an expression of opinion on the merits of the case.

(B.S. Walia)
Judge

16.03.2021

shabha

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