

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

212

CRM-M-14701 of 2021
Date of decision:05.10.2021

Lakhwinder Singh @ Billa

... Petitioner

Vs.

State of Punjab

... Respondent

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present:- Mr. Ranbir Singh Sekhon, Advocate
for the petitioner.

Mr. Karanbir Singh, AAG, Punjab.

Mr. Tarun Sharma, Advocate
for the complainant.

SUVIR SEHGAL, J. (Oral)

Instant petition has been filed under Section 439 of Cr.P.C. for grant of regular bail to the petitioner in case FIR No.42 dated 21.04.2020 registered under Sections 302, 307, 341, 188, 148, 149 of Indian Penal Code, 1860 and Sections 25 and 27 of Arms Act, 1959 at Police Station Makhu, District Ferozepur (Annexure P-1).

FIR (Annexure P-1) has been registered on the statement of Jagjeet Singh @ Jagga on the allegation that on 20.04.2020, when he was walking alongwith his friend Judge Singh, a Balero Camper came and stopped near them from which Rajvir Singh, who was armed with a pistol and Lakhwinder Singh @ Billa (present petitioner) armed with Kappa and an unknown driver alighted. When the complainant and his friend questioned them on their movement during lockdown, a quarrel ensued

between them and on hearing the commotion, Jugraj Singh, Gurjinder Singh, Sarabjit Kaur @ Shabho and her daughter-Rajwinder Kaur came on the spot, encircled them and instigated the co-accused. Rajvir Singh fired two shots from his pistol which hit Judge Singh on his chest and as the complainant tried to rescue him, two shots were fired at him which hit him under the left elbow. When they raised an alarm, all the accused fled away from the spot. Judge Singh died during his treatment in the hospital. The motive of the attack is that Rajvir Singh was having illicit relationship with Rajwinder Kaur and on being questioned, he fired on the complainant.

Counsel for the petitioner has argued that though the petitioner is named in the FIR and is alleged to be armed with a Kappa, yet no injury has been attributed to him. He submits that mere fact that he was accompanying the alleged main accused, Rajvir Singh, does not make him an accomplice in the homicide. He asserts that the petitioner, who is in custody since 26.04.2020, has clean antecedents, is no longer required for custodial interrogation as the challan against him has been presented and the charge has been framed, therefore, he deserves to be released on bail.

State counsel, who is assisted by Mr. Tarun Sharma, counsel for the complainant have opposed the petition on the ground that recovery of Kappa has been effected from the petitioner. State counsel submits that the petitioner was a part of unlawful assembly, though upon instructions from ASI Gurnam Singh, he could not deny the fact that no injury has been inflicted by him. He has made a reference to the status report filed by way of an affidavit of Deputy Superintendent of Police Zira, District Ferozepur.

Upon further instructions, he submits that challan has been presented on 17.07.2020, charge has been framed and there are total 32 prosecution witnesses but none has been examined.

I have considered the respective submissions of counsel for the parties.

Keeping in view the facts and circumstances in their totality, this Court is of the opinion that the complicity of the petitioner in the crime is debatable. Considering the period of incarceration of the petitioner which by now is more than 01 year and 05 months, nature of allegations against him and the fact that the trial is likely to take time to conclude, this Court is *prima facie* of the view that he deserves to be enlarged on bail, during the pendency of the trial.

Without examining the merits or demerits of the arguments addressed by counsel for the parties, the petition is allowed. The petitioner is ordered to be released on bail on furnishing bail/surety bonds to the satisfaction of the trial Court/Duty Magistrate concerned.

It is clarified that any observation made hereinabove shall not be construed to be a reflection of opinion on the merits of the case.

October 05, 2021
savita

(SUVIR SEHGAL)
JUDGE

Whether Speaking/Reasoned	Yes
Whether Reportable	Yes