

**IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH**

105

**CRM-M-15977-2020
Date of decision: 09.02.2021**

Shamsher Singh @ Shera

.....Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MR. JUSTICE ARUN KUMAR TYAGI

Present : Mr. Baldev Singh Maan, Advocate
for the petitioner.

Mr. Sandeep Kumar, DAG, Punjab
for the respondent-State.

ARUN KUMAR TYAGI, J. (ORAL)

The petitioner has filed the present (first) petition under Section 439 of the Code of Criminal Procedure, 1973 for grant of regular bail in case FIR No.51 dated 25.03.2017 registered under Sections 307, 364, 353, 427, 186, 148 read with Section 149 of the Indian Penal Code, 1860 at Police Station City Gurdaspur, District Gurdaspur to which Section 52-A of the Prisoners Act, 1900 was added lateron.

The above said FIR was registered on complaint made by Superintendent of Central Jail, Gurdaspur to SHO, Police Station City Gurdaspur on the allegations that on 24.03.2017 at about 12:20 P.M. Warder Mahesh Lal and Mohinder Masih gave information on intercom that accused Shamsher Singh (the petitioner) in connivance with accused Jugraj Singh and other accused persons had beaten them when the above said warders stopped them from going out of their barracks. After the Jail Superintendent and other jail officials reached there,

accused Shamsheer Singh (the petitioner) and Jugraj Singh along with other accused persons reached barrack No.4 and on their instigation, the other accused persons broke the taps and grills of the jail, used the same as weapon, also dismantled the wall of the bathroom and gave brick bats blows to him and other jail and police officials and they saved themselves with difficulty from the clutches of the accused persons. The accused persons also damaged CCTV cameras, jammers, other articles in the canteen and barracks and other government property. On completion of investigation the petitioner and other accused persons have been charge-sheeted by the police.

The petitioner being in custody since his arrest in the case has filed the present petition for grant of regular bail.

The petition has been contested by the respondent-State in terms of short reply filed by way of affidavit of Sukhpal Singh, PPS, Deputy Superintendent of Police, City Gurdaspur.

Custody certificate of the petitioner has been filed by the learned State Counsel today in Court which is taken on record.

I have heard arguments addressed by learned Counsel for the petitioner and learned State Counsel and gone through the relevant record.

Learned Counsel for the petitioner has submitted that the petitioner has been falsely implicated in the case. The petitioner along with his friends/members of his group is raising issues of drug trafficking and illegal mining in his area due to which he is being targeted by drug peddlers and persons indulging in illegal mining. The petitioner was falsely implicated in criminal cases. The petitioner was

sent to Gurdaspur Jail where he found big nexus of drug dealers inside the jail regarding which he complained to the Superintendent of Jail but he was warned not to interfere. One jail police official was caught with heroine by the petitioner and other inmates and when they took him to the jail authorities, the petitioner and other inmates were beaten up badly by them and even food was not given to them for several days and they were locked up in solitary cells. On 23.03.2017 again same officials were caught with some drugs and when petitioner and inmates gathered and raised their voice about drugs being supplied by jail officials, the petitioner and other inmates were beaten up badly and were falsely implicated by manipulating whole story as stated in the FIR whereas no such alleged occurrence took place. The trial is likely to take long time due to restrictions imposed to prevent spread of Covid-19. No useful purpose will be served by further detention of the petitioner in custody. Similarly placed co-accused Jugraj Singh has been granted bail by the learned Additional Sessions Judge, Gurdaspur vide order dated 07.03.2018. Therefore, the petitioner may be granted regular bail.

On the other hand, learned State Counsel has submitted that the petitioner is the main offender who had instigated other inmates and along with them indulged in violence in the jail. The petitioner is also involved in other cases. In view of the nature of accusation and gravity of the offences, the petitioner does not deserve grant of regular bail. Therefore, the petition may be dismissed.

In view of the facts and circumstances of the case, nature of accusation and evidence against the petitioner, the period of his

custody, parity with co-accused Jugraj Singh who has been granted bail in the case and the fact that the trial is likely to take long time due to restrictions imposed to prevent the spread of Covid-19, but without commenting on the merits of the case, I am inclined to extend the concession of regular bail to the petitioner.

Accordingly, the petition is allowed and the petitioner is ordered to be released on regular bail on furnishing of personal and surety bonds to the satisfaction of the trial Court/Chief Judicial Magistrate/Duty Magistrate concerned.

09.02.2021

(ARUN KUMAR TYAGI)
JUDGE

Vinay

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