

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

201

CRM-M-46038 of 2018

Decided on 06.09.2021

Gurmukh Singh @ Ghulla

.....Petitioner

VERSUS

State of Punjab

.....Respondent

CORAM : HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present:- Mr.M.L.Saggar, Senior Advocate, with
Mr.Sunny Saggar, Advocate,
Ms.Armaan Saggar Chadha,
Ms.Subhreet Saron, Advocates, for the petitioner.

Mr.J.P.Ratra, DAG, Punjab.

Mr.Rubal Garg, Advocate, for the complainant.

(Through video conferencing)

ARVIND SINGH SANGWAN, J. (Oral)

Prayer in this petition is for grant of anticipatory bail in FIR 174 dated 07.09.2018 under Sections 307, 506, 148, 149 of the IPC (Sections 186, 188, 353, 332, 120 B of the IPC were added later on) and Sections 25, 27 of Arms Act, 1959 registered at Police Station Station City Patti, District Taran Taran.

On 17.10.2018 the following the orders were passed:-

“Learned Senior counsel for the petitioner submits that the petitioner is the President of the Patti Majha Truck Operator Society (Regd.) (*for short 'Society'*) and the Society was allotted a tender for transportation w.e.f. 01.04.2018. It is further submitted that on account of the political rivalry as the petitioner belongs to the opposite group, a show cause notice was issued to him on 20.04.2018 for 22.04.2018 to give his explanation with regard to his default, however, on 21.04.2018, the Society of the petitioner was blacklisted. Thereafter, the aforesaid Society filed **CWP No. 10164 of 2018**, in which the following order was passed

on 27.04.2018 (Annexure P-2):

“C.M. Nos.6243,6245 & 6250 of 2018:

The three civil miscellaneous applications for filing the amended writ petition, impleading parties and for placing certain documents on record are allowed subject to just exceptions.

CWP-10164-2018:

Issue notice of motion returnable on 09.05.2018. Respondent Nos.1 to 6, 9, 10, 19 and 20 waived service, as Mr. Avinit Avasthi, AAG, Punjab, accepts notice on behalf of respondent Nos.1 to 6, Mr. Vikas Singh, Advocate, on behalf of respondent No.9, Mr.S.S. Bedi, Advocate, on behalf of respondent Nos.10 and 20 and Mr. ADS Jattana, Advocate on behalf of respondent No.19. Dasti for other respondents. If the allegations stated in the petition are true, it is indeed a serious matter. However, without the benefit of a reply from the respondents, we do not wish to express any view on the merits of the case at this stage except to state that the matter requires serious consideration. The learned counsel appearing on behalf of respondent Nos.1 to 6 states that the work is at present being done on an ad hoc basis by a commission agent and the same will be subject to any further decision of respondent Nos.1 to 6 or of this Court. It is, therefore, not necessary to consider any interim relief against the private respondents at this stage before they have an opportunity of filing an affidavit-in-reply. If the petitioner suffers any damage on account of the delay, it is always at liberty to adopt proceedings against the parties concerned for appropriate reliefs. At present, no rights are being created in favour of any party including the said commission agent who is carrying on work only on an ad hoc basis. Considering the nature of the matter, all the respondents shall file their affidavits-in-reply within ten days of their receiving notice of this petition. The petitioner was, by a notice dated 21.04.2018, directed to explain his position by appearing personally before the District Manager, PUNGRAIN, at 2:00 P.M. on 22.04.2018. The notice stated that failing which it would be presumed that the petitioner was not interested in carrying out the work as per the terms and conditions of the agreement. Curiously, the

impugned order blacklisting the petitioner was passed on 21.04.2018 i.e. even before the date of the hearing. Mr. Avinit Avasthi, AAG, Punjab, today produced a corrigendum which stated that through a typographical error the order is dated 21.04.2018 instead of 22.04.2018. Considering the facts and circumstances of the case, the order, in so far as it blacklists the petitioner, is stayed for all purposes till the next date that the matter is taken up for hearing. Copy dasti under the signatures of the Bench Secretary.

Sd/-(S.J. Vazifdar), Chief Justice

Sd/- (Avneesh Jhingan), Judge”

Learned Senior counsel for the petitioner further submits that thereafter, the Society had to file another **CWP No. 13555 of 2018** as the Society was not permitted to continue with the work and on 04.06.2018, the following order was passed:

“Counsel for the petitioner inter alia submits that vide communication dated 13.04.2018 (Annexure P-14) the petitioner was permitted to carry on day today work till the award of new contract under the same terms and conditions on account of litigation pending and there is stay order from the Apex Court. It is further submitted that the validity of the bank gurantee has also been extended from 05.08.2018 to 04.08.2019 on the same terms and conditions (Annexure P-14). Resultantly, the ad-hoc tender (Annexure P-20) which has now been issued has been questioned. Notice of motion. Mr. I.P.S. Doabia, Additional AG, Punjab accepts notice on behalf of respondent Nos.4, 5, and 11 to 13. Copy be supplied during the course of day. Notice to unserved respondents be issued for 11.06.2018 by way of dasti process.

Sd/-(G.S. Sandhawalia), Judge

Sd/- (Anupinder Singh Grewal), Judge”

Learned Senior counsel further submits that the Society thereafter moved an application bearing CM No. 12952 of 2018 in CWP No. 13555 of 2018 for providing adequate security for carrying on said transportation business. The said application was decided after hearing all

the parties concerned by passing the following order on 06.09.2018:

**“This is an application made by the petitioner with a prayer to command the official respondents to provide adequate police force for transportation of food-grains from the godowns of respondents No. 1 to 3 situated in District Tarn Taran to Patti Railhead, District Tarn Taran for which it has a valid contract. The allegation made in the application is that despite having made all the arrangements for transportation of food-grains, because of the illegal interference of certain people having political patronage, the transportation could not be carried out and despite requests adequate police force was not made available. When the matter was taken up yesterday, learned Additional Advocate General, Punjab was required by us to seek instructions in this regard. Today, on the basis of the instructions received from Additional Deputy Commissioner and Senior Superintendent of Police, Tarn Taran, learned Additional Advocate General, Punjab states that adequate police force shall be provided to safeguard the transportation by the petitioner from the godowns of respondents No. 1 to 3 situated in District Tarn Taran to Patti Railhead, District Tarn Taran, provided information is provided either to Deputy Commissioner or Senior Superintendent of Police, Tarn Taran with respect to the transportation by the Food Corporation of India. Accordingly, we dispose of the application in accordance with the statement made before us by learned Additional Advocate General, Punjab.
Sd/-(Krishna Murari), Chief Justice
Sd/-(Arun Palli), Judge”**

Learned Senior counsel for the petitioner has further submitted that after the aforesaid order was passed on 06.09.2018, the very next day on 07.09.2018, the present FIR was registered in which 35 persons were named and 45 other persons, whose names were not mentioned, were also cited as accused. It is further submitted that since the petitioner is pleading his false implication in the FIR, he moved a representation, along with CCTV footage of the incident, before the Director General of Police, Punjab who

directed the Inspector General of Police, Border Range, Amritsar to look into the grievance of the petitioner and on 21.09.2018, the Inspector General of Police, Border Range, Amritsar constituted an SIT under the supervision of Superintendent of Police (Investigation), Amritsar (Rural) with two other members i.e. DSP (I), Amritsar (Rural) and DSP (I), Tarn Taran. In this order, it was specifically mentioned that the SIT will carry out the investigation of the matter purely on merits and submit a report at the earliest and it was further directed that further action in this case/FIR will be initiated only after approval of the report of SIT.

Learned Senior counsel for the petitioner further submits that the SIT is carrying out the investigation and as many as 65 persons have appeared and their statements have been recorded and the petitioner is ready to appear before the SIT for that purpose.

Learned Senior counsel for the petitioner further submits that involvement of the petitioner in the present FIR is on account of the political rivalry between the two groups and as per the allegations in the FIR, the petitioner had used a 12 bore fire arm in which one Ranjodh Singh (complainant) was injured and he sustained five gun shots injuries i.e. *lacerated punctured wound on tip of his left shoulder, lacerated punctured wounds on left forearm and lacerated punctured wounds on left side of abdomen.*

Learned Senior counsel for the petitioner has relied upon MLR of complainant Ranjodh Singh wherein all the aforesaid injuries were declared simple as per the opinion given by the doctor on 10.09.2018.

Notice of motion.

Mr. J. S. Bedi, Senior Advocate, assisted by Barrister Rubal Garg, who are present in Court, accepted notice on behalf of the complainant.

Learned Senior counsel for the complainant submits that as per the allegations in the FIR, the petitioner is specifically attributed an injury and further submits that total 14 persons including two police officials, i.e. SHO/Inspector Rajesh Kumar and HC Mukhtiar Singh, have suffered gunshot injuries.

Learned Senior counsel for the complainant further submits that on the face of it, offence under Section 307 IPC is made out against the petitioner as on perusal of the FIR, the intention of the petitioner to commit the offence can be clearly seen.”

Learned senior counsel for the petitioner submits that a period of about 3 years as past and petitioner has not misused the concession of interim bail. Counsel for the petitioner submits that in compliance of the order dated 14.01.2020, petitioner has already furnished an affidavit that he is holding on licensed weapon which has deposited to the police on 05.09.2021.

Learned State counsel on instructions from ASI Baljinder Singh and on the basis of the affidavit of the Investigating Officer has not disputed the factual position that petitioner-Gurmukh Singh was holding a licensed weapon which has been deposited to the police on 05.09.2021. He further submits that the petitioner has joined the investigation and not required for any further investigation and the *challan* in this case has yet to be presented.

In view of the above, this petition is allowed and the interim bail granted to the petitioner vide order dated 17.10.2018 is made absolute subject to the conditions envisaged under Section 438 (2) Cr.P.C.

It is further made clear that in case for the purpose of presentation of *challan*, the presence of the petitioner is required, it will be open for the Investigating Officer to issue a notice in writing to the petitioner to join the investigation.

(ARVIND SINGH SANGWAN)
JUDGE

06.09.2021
anil

<i>Whether speaking/reasoned :</i>	<i>Yes/No</i>
<i>Whether reportable</i>	<i>Yes/No</i>