

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

207/4

CRM-M-40246 of 2020

Date of Decision:19.07.2021

Karamjeet Singh @ Karampreet Singh

..... Petitioner

Versus

State of Punjab

..... Respondent

2)

CRM-M-37037 of 2020

Taranpreet Singh @ Preet Saini

..... Petitioner

Versus

State of Punjab

..... Respondent

3)

CRM-M-39380 of 2020 (O&M)

Harvinder Singh Mahal

..... Petitioner

Versus

State of Punjab

..... Respondent

4)

CRM-M-42412 of 2020

Gurpreet Singh @ Gopi

..... Petitioner

Versus

State of Punjab

..... Respondent

CORAM: HON'BLE MR. JUSTICE AMOL RATTAN SINGH

Present: Mr. Jatinder Nagpal, Advocate,

for the petitioner(s) in CRM-M nos.40246 and 37037 of 2020.
Mr. Preetinder Singh Ahluwalia, Advocate,
for the petitioner in CRM-M-39380 of 2020.

Mr. H.S. Multani, DAG, Punjab

AMOL RATTAN SINGH, J. (ORAL)

Case heard via video conferencing.

CRM-M-40246 of 2020

On 04.12.2020 the following order had been passed in this case:-

“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.

By this petition, the petitioner seeks the concession of anticipatory bail, upon FIR no.50, dated 6.5.2020, having been registered at Police Station Pasyana, District Patiala, alleging therein the commission of offences punishable under Sections 302/307/323/326/324/341/188/506/148/149 of the IPC and Sections 51 and 54 of the Disaster Management Act, 2005 (with Section 3 of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 having been added later on).

Learned counsel for the petitioner submits that the petitioner was not named in the FIR and has been allegedly named as one of the accused in a supplementary statement made by another accused and in fact the petitioner was 20 kms away from the spot when the occurrence took place.

Notice of motion.

Mr. Ramdeep Partap Singh, learned DAG, Punjab, accepts notice at the asking of the court.

He does not deny, as per instructions received by him so far from SI Sohan Singh, that the petitioner was named subsequently and

is not named in the FIR, which obviously is also evident from a perusal of the FIR.

That being so, without making any comment on the actual merits of the case, the petitioner is directed to join investigation within one week and upon him so joining if he is sought to be arrested, he shall be released on bail, on his furnishing adequate bail and surety bonds to the satisfaction of the arresting officer/Ilaqa Magistrate.

He shall also comply with all conditions stipulated in Section 438(2) of the Cr.P.C.

If the investigating officer does not actually join the petitioner in investigation, he would appear before the learned Ilaqa Magistrate immediately, who would then summon the arresting officer and direct him to join him in investigation, in terms of the order of this court.

Adjourned to 16.12.2020.

To be heard alongwith CRM-M-36064 of 2020.

A gazetted officer is directed to file a common reply to all the connected petitions, giving therein the role of each of the petitioner in all such petitions, specifically stating therein also as to the number of vehicles and the kind of vehicles that are stated to have come to the spot where the alleged murder took place, and the number of people who are stated to have alighted from such vehicles.”

Thereafter the matter had been adjourned from time to time, with the interim order continued, as the petitions filed by other co-accused under the provisions of Section 439 of the Cr.P.C. were also heard alongwith this petition.

Upon query to Mr. Multani, learned AAG, Punjab, he submits, on instructions, that the petitioner though had joined investigation, he is not cooperating, inasmuch as he has not got the *danda* as was used in the (alleged)

commission of the offence, recovered.

He further submits that the petitioner was named as one of those persons who had inflicted 30 injuries on the person of the deceased and therefore he does not deserve to be admitted to bail; though upon learned counsel for the petitioner reiterating today that the petitioner was never initially named in the FIR but named subsequently in the supplementary statement made by the complainant after 10 days and therefore he has only been roped in in the occurrence, learned State counsel not deny that factual position (as regards he being named subsequently).

Having looked at this petition in detail today, whereas Mr. Nagpal, learned counsel for the petitioner, vehemently argued that persons similarly situated to the petitioner have already admitted to bail by this court, upon query, obviously he could not deny that they were admitted to bail under the provisions of Section 439 of the Cr.P.C. and not Section 438 thereof.

Naturally, the parameters of admitting a person to bail under the two provisions, are wholly different.

The petitioner may have been named in a supplementary statement but this court, at least for the purpose of this petition, cannot lose sight of the fact that a total of 14 persons were named in the FIR as those who attacked the complainant and his companions, with 10 persons having been exonerated by the investigating agency (out of those 14) and with 10 other persons having been added later as accused, on a supplementary statement stated to have been made by the complainant.

Thus, with the number of injuries shown to be inflicted on the person

of the deceased, in the opinion of this court (again for the purpose of this petition alone), it cannot be stated that only those armed with sharp edged weapons intended to cause his death.

Hence, as regards this petition seeking anticipatory bail, I see no reason for the interim order to continue, with the petition therefore dismissed and the interim order vacated.

However, if the petitioner is arrested thereafter and moves an application/petition under the provisions of Section 439 of the Cr.P.C., that would be considered on its own merits.

CRM-M-37037 of 2020

As regards this petitioner, his petition is one filed under the provisions of Section 439 of the Cr.P.C., Mr. Nagpal submits that he has been in custody since May 19, 2020, with the trial not even having commenced as yet, other than submission of the report under Section 173 of the Cr.P.C.

It is to be noticed that as recorded in the order dated 16.03.2021, it had been contended by learned State counsel appearing at that stage, that he was the person who was giving the location of the victims to his co-accused, on a 'Whatsapp' call, and therefore he cannot be stated to be not involved in the commission of the crime.

The SSP, Patiala, had therefore been directed to annex with his affidavit call details records of the locations of the aforesaid persons, as learned counsel for the petitioner had submitted that a completely different story had been given in the reply of the DSP, Samana (with him today submitting that the story given earlier was that he was one of the persons who had alighted from the second

car which came to the place and was therefore an active participant in the occurrence).

Upon query to learned State counsel, obviously he could not deny the stage of the trial and on further query, he submits that there is one other criminal case registered against the petitioner (not denied by learned counsel for the petitioner), alleging therein the commission of an offence punishable under Section 22 of the NDPS Act, 1985, with that FIR registered on 19.08.2018.

Counsel for the petitioner submits that the petitioner has been admitted to bail in that case.

Having considered the matter, simply looking at this stage at the period of custody of the petitioner and the stage of the trial together, as also the fact that other than the case under the provisions of Section NDPS Act (in which he is 'on bail'), there is no other criminal case found to be registered against the petitioner, further looking at the discrepancy in the facts depicted (qua the petitioner) as regards his role (as contended by learned counsel), this petition is allowed, and the petitioner is ordered to be released on bail upon his furnishing adequate bail and surety bonds to the satisfaction of the trial court.

CRM-M-42412 of 2020

This petition seems to have been erroneously listed for hearing alongwith the connected matters, it actually having been allowed vide an order dated 19.04.2021.

CRM-M-39380 of 2020

In the order dated 16.03.2021, as regards the petitioner in this case, i.e. Harvinder Singh Mahal, the following observations had been made by this

court:-

“As regards petitioner Harvinder Singh Mahal (in CRM-M-39380 of 2020), in view of the fact that no reasoning has been given for not declaring him to be innocent, with 5-6 others declared innocent by the investigating agency, who also are stated to have alighted from the same car as he alighted from (as per the allegation), the SSP, Patiala, is now directed to file his own affidavit as to what kind of investigation was conducted by the investigating officer, who has simply based his investigation on applications made and obviously conducted no investigation of his own.

In the aforesaid circumstances, petitioner Harvinder Singh Mahal is ordered to be admitted to interim bail, upon his furnishing adequate bail bonds and surety bonds to the satisfaction of the learned trial court/Area Magistrate/Duty Magistrate concerned, till the next date of hearing before this court.”

Thereafter an affidavit dated 14.04.2021 has been filed by the SSP, Patiala, from which Mr. Ahluwalia points to paragraphs 14 and 15, wherein it is stated that an SIT was constituted headed by a DSP and that it was found that in village Pasiona there were many political factions who had got cases registered against each other, owing to which the complainant had also named 14 persons in the said case, but with some of those persons actually not found to be present at the spot, upon investigation carried out.

As regards the petitioner herein, i.e. Harvinder Singh Mahal, it is stated in paragraph 18 that his “internet location” revealed his presence to be at village Dablan, which is approximately 5-6 kms from the place of occurrence, at 6:38 p.m; after which his phone remained switched off till 10:17 p.m. and thereafter, as per his mobile numbers, he was found to be present at village

Chanarthal Kalan, District Fatehgarh Sahib. Immediately thereafter it is stated in the affidavit that the petitioner got recovered an iron rod from a room.

Keeping in view the above facts, again without making any comment on the actual merits of the case, with the petitioner not stated to have misused the concession of interim bail as he was admitted to, also again looking at the stage of the trial, the petition is allowed, with the order dated 16.03.2021 admitting him to interim bail made absolute on the same terms and conditions.

However, all observations made in the orders passed in these petitions will not be gone into on the merits of the case for or against the petitioners, which would, naturally, be considered by the trial court on the basis of evidence led before it.

A photocopy of this order be also placed on the file of the other connected case.

July 19, 2021
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(AMOL RATTAN SINGH)
JUDGE

Whether speaking/reasoned
Whether Reportable

Yes
No