

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

(108+212)

CRM-M-41936-2020 (O&M)

Date of decision:- 01.11.2021

Shahbaj Singh

... Petitioner

Versus

State of Punjab

... Respondent

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present:- Mr. Pratham Sethi, Advocate for the applicant-petitioner.

Mr. Sarabjit Singh Cheema, AAG, Punjab.

Mr. Anureet S. Sidhu, Advocate for the complainant.

...

SUVIR SEHGAL, J. (ORAL)

Heard through video conferencing.

CRM-31002-2021

For the reasons given in the application, it is allowed.

Compromise deed is taken on record as Annexure P-11.

CRM-3060-2021

For the reasons given in the application, it is allowed.

Documents are taken on record as Annexures P-5 and P-6, subject
to all just exceptions.

CRM-M-41936-2020

Instant petition has been filed under Section 439 of the Code of Criminal Procedure, 1973 seeking grant of regular bail to the petitioner in case FIR No.163 dated 29.09.2019 under Sections 307 of the Indian Penal Code, 1860 and Sections 27 and 29 of the Arms Act, 1959, registered at Police Station Arniwala, District Fazilka.

As per the case of the prosecution, FIR has been registered on the statement of Karanbir Singh on the allegation that due to a property dispute, his cousin, Shahbaj Singh (present petitioner), fired at him with a 315 bore licensed rifle belonging to his father, which hit his right leg. The incident was witnessed by the father of the complainant as well as his uncle, Balkaran Singh, who tried to stop Shahbaj Singh from firing and snatched the gun from him. Petitioner was arrested on 24.09.2020.

Counsel for the petitioner has contended that the occurrence is alleged to have taken place on 26.09.2019 and on the same day, the complainant was taken to MAX Hospital, Bathinda where he gave a statement that he accidentally shot himself while cleaning a gun. Counsel submits that the FIR is an after thought as the same has been registered three days after the alleged occurrence and the petitioner and complainant, who are closely related to each other, have now entered into a compromise on 10.09.2021, Annexure P-11, after the complainant's testimony was recorded on 16.08.2021, wherein he supported the case of the prosecution. He urges that in his supplementary statement recorded on 03.10.2020, Annexure P-7, after more than a year, the complainant changed his stand

and stated that rifle was of 256 bore, after the recovery of 256 bore rifle was allegedly effected from the petitioner on 24.09.2020 vide recovery Memo, Annexure P-8. Counsel asserts that the petitioner, who has clean antecedents, is no longer required for custodial interrogation. The trial is at its initial stage, therefore, he deserves to be released on bail.

Per contra, learned State counsel, upon instructions from ASI Boota Singh, has opposed the petition and submitted that the examination of the complainant is incomplete as during the course of his examination, an application under Section 319 Cr.P.C. has been filed to summon the father and the mother of the petitioner as additional accused. Upon further instructions, he submits that the challan has been presented on 15.12.2020, charge has been framed on 21.01.2021 and 02 out of 18 prosecution witnesses have been examined.

Counsel representing the complainant submits that as the petitioner and complainant are cousins, on the intervention of the respectables, the dispute has been amicably settled and he has instructions to state that the complainant stands by the compromise, Annexure P-11.

Having considered the facts and circumstances, this Court is of the opinion that the involvement of the petitioner in the alleged offence would remain debatable and the petitioner, who has a clean past and has suffered incarceration for the last more than 01 year and 01 month, deserves to be released on bail as the trial is likely to take time to conclude.

Without examining the merits or de-merits of the arguments addressed by the counsel for the parties, the petition is allowed. The petitioner, namely, Shahbaj Singh, is ordered to be released on bail on his furnishing heavy bail/surety bonds to the satisfaction of the Illaqa Magistrate/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.

(SUVIR SEHGAL)

JUDGE

01.11.2021

Kamal

Whether Speaking/Reasoned	Yes/No
Whether Reportable	Yes/No