

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

CRM-M-4199-2021

Date of Decision: 17.02.2022

Arshdeep Singh alias Ravi

.....Petitioner

Vs.

State of Punjab

.....Respondent

201-2

**CRM-5158-2022 in/and
CRM-M-4541-2021**

Inderjeet Singh

....Petitioner

vs.

State of Punjab

...Respondent

201-3

CRM-M-5565-2021

Bhagwan Singh and another

...Petitioner

vs.

State of Punjab

....Respondent

CORAM: HON'BLE MR. JUSTICE AMOL RATTAN SINGH

Present: Mr. Vikas Gupta, Advocate,
for the petitioner (in CRM-M-4199-2021).

Mr. Amit Arora, Advocate,
for the petitioners in CRM-M-4541 and 5565 of 2021.

Mr. M.S. Nagra, A.A.G., Punjab.

AMOL RATTAN SINGH, J. (ORAL)

CRM-5158-2022 in CRM-M-4541-2021

By this application, learned counsel for the petitioner seeks to

place on record a copy of an order dated 31.03.2021 passed by the learned Additional Sessions Judge, Tarn Taran, admitting a co-accused (Bhagwan Singh) to bail under the provisions of Section 438 of the Cr.P.C., as also a copy of another order dated 06.04.2021, by which one Devinder Singh was also admitted to bail.

Notice in the application.

On the asking of the court, Mr. M.S. Nagra, A.A.G., Punjab, accepts notice on behalf of the respondent-State.

The application is allowed subject to all just exceptions and copies of the aforesaid orders are ordered to be taken on record with the accompanying petition as Annexures P-6 and P-7, respectively.

CRM-M-4199 and 4541 of 2021

By these petitions, the petitioners seek the concession of 'pre-arrest bail', upon FIR No. 261 having been registered at Police Station City, District Tarn Taran, on 05.10.2020, alleging therein the commission of offences punishable under the provisions of Sections 307/160/148/149 of the IPC and Sections 25/27 of the Arms Act, 1959 (with Sections 201/212/216-A of the IPC having been added later).

The petitioners having been ordered to be admitted to interim bail on joining investigation in view of what was contended on their behalf on the date that notice of motion was issued on 08.02.2021, thereafter on 01.02.2022 the following order had been passed by this court:-

“Case heard via video conference.

Pursuant to a previous order passed, an affidavit was eventually filed by the SSP, Tarn Taran, as

there was a contradiction between the stand of the DSP in his affidavit and the stand of the investigating officer as conveyed to the learned State counsel appearing at that stage, as to whether the petitioners' custodial interrogation was required or not.

In the affidavit of the SSP, he has stated that the petitioners are part of a group/two groups as were found to be firing at each other at a public place, with passersby including a 10 year child and a 65 year old man, having been injured in the cross fire, with empty shells of a .12 bore rifle and a .32 bore pistol also having been recovered later by the police.

It has also been stated by the SSP that the names of the petitioners were even disclosed by their co-accused who were arrested.

In such circumstances, actually I would seen no reason whatsoever to entertain these petitions any further, but with learned counsel for the petitioner, Inderjeet Singh, submitting that he is a 32 year old man with a disability and therefore in any case he would not be involved in college politics and with learned counsel for the petitioner, Arshdeep Singh, also submitting that he too is 25 years old.

Consequently, the SSP would determine the correctness of the aforesaid averments and give his opinion as to why then the petitioners would be involved in any college rivalry, though of course it cannot be said by this court that somebody who is above the age of normal student life, would or would not indulge in any such kind of occurrences.

Adjourned to 17.02.2022.

Interim orders to continue till that date only and specifically, with it made clear that any

request for an adjournment made by counsel for the petitioners on that date would result in immediate vacation of the interim order qua the petitioner concerned.

It is further to be noticed that the SSP has stated that the custodial interrogation of the petitioners is required.

Learned counsel for Inderjeet Singh, would also place on record any disability certificate that he has, issued by following due procedure, by a Government Hospital.

Interim orders to continue till then.

A photocopy of this order be placed on the files of the other connected cases.”

In response thereto, virtually identical affidavits have been filed in court today by learned State counsel, executed by the Senior Superintendent of Police, on 16.02.2022, which are ordered to be taken on record in the context of each petition.

As per the affidavits, as regards any disability of the petitioner Inderjeet Singh, a communication was made to the doctor concerned in the Civil Hospital, who stated that the said petitioner had come to him for stomach treatment and thereafter he had left and that Inderjeet Singh is neither handicapped nor disabled.

In that context, today learned counsel appearing for him submits that he had undergone an operation for ulcer treatment in the year 2018 and he was mistaken in having contended otherwise on the last date, the handicapped accused actually being one Bhagwan Singh.

As regards the age of petitioner Arshdeep Singh @ Ravi, it is

stated by the SSP that as per his Matriculation certificate, his date of birth is 03.01.1995 and therefore he is about 26 years of age (actually 27, therefore).

It has again been reiterated by the SSP that (despite whatever the age of the petitioners may be), as per investigation conducted so far, they have been found to be involved, along with their co-accused, indulging in firing in a public place and in the crossfire a 65 year old man and a 10 year old child were injured; and consequently, their custodial interrogation is required even to recover the weapons that they are alleged to have used.

It has also been stated by the SSP that the statement made to the contrary by ASIs Baldeep Singh and ASI Gajjan Singh were not correct and in fact they have been subjected to departmental enquiries for not having performed their duties.

In view of the above, I find absolutely no ground to entertain these petitions by which the petitioners seek to be anticipatory bail, and consequently they are dismissed with the interim orders admitting them to bail, vacated.

Naturally, however, if the petitioners are arrested and thereafter file any petition under the provisions of Section 439 of the Cr.P.C., such petitions would be considered wholly on their own merits and with all observations made by this court in any of the orders passed in these petitions to be taken wholly in the context of such petition, and with the investigating agency to continue with the investigation on the basis of evidence gathered and with the competent court to thereafter consider that evidence wholly on merits.

As regards the order passed by the learned Additional Sessions

Judge admitting Bhagwan Singh to bail, it is seen that upon that accused having been admitted to interim bail by that court under the provisions of Section 438 of the Cr.P.C., thereafter on 31.03.2021 ASI Harjinder Singh had suffered a statement to the effect that Bhagwan Singh having joined investigation he was not required for further investigation and consequently that order was passed. (Of course as noticed hereinabove, learned counsel for the petitioners today submit that in fact Bhagwan Singh is handicapped though that aspect has not been referred to in the said order).

As regards Devinder Singh, it has been noticed by that court in its order dated 06.04.2021 that in fact a similar petition filed by the present petitioners (Arshdeep Singh alias Ravi and Inderjeet Singh) having been dismissed by that court on 18.01.2021, thereafter they had been admitted to interim bail by this court (in these petitions) and consequently, Bhagwan Singh having extended the concession of bail (by that court), on that basis Devinder Singh was also admitted to bail by that court.

Very obviously, firstly, this court would not be bound by the order passed by the Additional Sessions Judge and second and more importantly, Davinder Singh was admitted to bail by that court, essentially on the strength of the orders passed by this court in these very petitions, admitting the petitioners herein to interim bail.

In view of the affidavits filed by the SSP as have been referred to hereinabove, and in terms of the previous order passed, I see no reason to alter this order in any manner, as is sought by learned counsel.

At this stage, learned counsel for the petitioners submits that there is also no MLR in respect of any injury of any person, as has been

placed on record.

In that context, the affidavit of the SSP states that in fact it was under the threat of both rival groups, that MLRs were not got recorded by Harjeet Singh son of Kashmir Singh, Kunnan Singh and Amarjit Singh.

CRM-M-5565-2021

The reply filed by the Deputy Superintendent of Police, Sub-Division Tarn Taran, dated 13.09.2021, is ordered to be taken on record.

Learned counsel for the petitioner submits that he does not press this petition.

Dismissed as withdrawn.

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

February 17, 2022
nitin

(AMOL RATTAN SINGH)
JUDGE

Whether speaking/reasoned	Yes
Whether Reportable	Yes