

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH**CRM-M-5548-2022 (O & M)****Date of decision: 13.09.2022**

Manpreet Singh

.... Petitioner

V/s

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present: Mr. Chandan Singh Rana, Advocate, for the petitioner.

Mr. Harkam Singh, AAG, Punjab.

Mr. Manu Loona, Advocate, for
father of the victim (deceased)

JASJIT SINGH BEDI, J. (Oral)

The prayer in the present petition under Section 439 Cr.P.C. is for the grant of the regular bail to the petitioner in cross case/DDR No.28 dated 24.10.2020 under Sections 307, 341, 148, 149 IPC and Section 302 IPC (added later on) registered at Police Station Sadar Ludhiana arising out FIR No.139 dated 24.10.2020 under Sections 307, 341, 148, 149 IPC and Sections 25/54/59 IPC registered at Police Station Sadar Ludhiana.

2. The brief facts of the case are that initially an FIR No.139 dated 24.10.2020 under Sections 307, 341, 148 and 149 IPC and Sections 25/54/59 of the Arms Act at Police Station Sadar Ludhiana (Annexure P-2) came to be registered at the instance of the present petitioner-Manpreet Singh son of Tirath Singh, who stated that on 23.10.2020 at about 8.15 p.m., he alongwith his friend Sukhpal Singh were at the juice shop Hanuman Mandir, Village

Singh resident of Village Majri, Ludhiana, who were already present at the said shop in drunken position started using abusive language towards them. They left the shop to avoid any altercation. The aforementioned persons started following their auto on their motorcycles. At about 8.40 p.m., the brother of Mintu, namely, Laddi @ Gursharan and one another unknown young boy were present near Pehalwan Dhaba, near Majri, who had come there on their motorcycle. They all encircled their auto (complainant-party) and in the meantime, the brother of Mintu, namely, Laddi @ Gursharan fired a shot upon the complainant (Manpreet) which struck his left shoulder. On raising a noise, these accused persons ran away from the spot. The motive was said to be an altercation at a Gym at Village Kalakh sometime back.

Pursuant thereto, the present cross-version was got registered at the instance of Gurmeet Singh @ Mintu who stated that there was a quarrel at the juice shop while he was accompanied with Harvinder @ Ravi and Iqbal Singh son of Gurmail Singh, and thereafter, Manpreet (the present petitioner) had called some people at the spot and he (the complainant-Gurmeet Singh @ Mintu) also called his brother Gursharan Singh @ Laddi alongwith other persons. A fight took place wherein Manpreet Singh (petitioner) gave a baseball bat blow on the head of Harvinder Singh @ Ravi who fell down at the spot. Thereafter, Gursharan Singh @ Laddi fired a shot with his illegal pistol upon Manpreet Singh (the present petitioner). Harvinder Singh @ Ravi sustained grievous injuries in the occurrence and died on 25.10.2020.

3. The learned counsel for the petitioner contends that the case is one of version and cross-version. Initially, the FIR had been registered at the instance of the petitioner-Manpreet Singh, who has received gun-shot injuries on his shoulder from the illegal pistol carried by Gursharan Singh @

Laddi. This fact remains undisputed as the present complainant (Gurmeet Singh @ Mintu) has admitted the fact that Gursharan Singh @ Laddi had fired shot upon Manpreet Singh. He contends that it is a case wherein taking the prosecution case to be true, the petitioner could be said to have acted in the right of his private defence as set-out in Section 100 IPC. Apparently, the present complainant party had come to the spot armed with illegal weapons to commit the offence in question. He contends that the petitioner-Manpreet Singh is in custody since 03.11.2020 and none of the 29 prosecution witnesses cited in the list of witnesses have been examined so far. He is not an accused in any other case and as such, has clean antecedents. It is, thus, prayed that the petitioner be granted the concession of regular bail.

4. The learned counsel for the State has filed a reply/status report dated 15.03.2022 by way of an affidavit of Deep Kamal, PPS, Assistant Commissioner of Police (South), Ludhiana. The factual narration of the FIR and cross-case/DDR have been enumerated. As per the PMR, the deceased-Harvinder Singh @ Ravi received seven injuries on the head, eyebrow, arm, abdomen, leg and right toes and the cause of death mentioned by the doctors is due to 'Craniocerebral damage consequent to blunt trauma to the head'. He contends that the recovery of the blood-stained baseball bat has been effected from him and the same has been sent to the FSL for its analysis. It is also admitted that initially the FIR had been registered at the instance of the petitioner wherein he has received one gun-shot injury on his shoulder at the instance of the brother of the Gurmeet Singh @ Mintu (complainant in the cross-case), namely, Gursharan Singh @ Laddi. He contends that the petitioner being the main accused is not entitled to the grant of regular bail.

5. The learned counsel for the complainant has reiterated the arguments of the learned State counsel submitting that the petitioner being the main accused is not entitled to the grant of regular bail.

6. I have heard the learned counsel for the parties at length.

7. Admittedly, the initial version of the FIR came from the mouth of the petitioner wherein he stated that at the time of occurrence, Gursharan Singh @ Laddi, brother of Gurmeet Singh @ Mintu (present complainant) had fired at him with an illegal weapon hitting his shoulder. A cross-version came to be registered at the instance of Gurmeet Singh @ Mintu wherein the petitioner is said to have caused the fatal injury on the person of Harvinder Singh @ Ravi. It would be a matter of adjudication during trial as to which side was the aggressor party and whether the petitioner was entitled to the benefit of Section 100 IPC or not. The petitioner is in custody since 03.11.2020 and none of the 29 prosecutions witnesses cited in the list of witnesses have been examined so far. Therefore, the further incarceration of the petitioner is not required.

8. Thus, without commenting upon the merits of the case, the present petition is allowed and the petitioner, namely, Manpreet Singh, is ordered to be released on bail to the satisfaction of the Trial Court/Duty Magistrate concerned.

9. The petitioner shall appear on the first Monday of every month before the local police station till the conclusion of the trial and furnish an affidavit each time that he is not involved in any crime other than the present one

10. If any attempt whatsoever is made by the petitioner and/or his family members/friends to contact/threaten/intimidate any of the witnesses of the present occurrence, the State/complainant shall be at liberty to move an

11. In addition, the petitioner shall prepare an FDR in the sum of Rs.2,00,000/- and deposit the same with the Trial Court. The same would be liable to be forfeited as per law in case of the absence of the petitioner from Trial without sufficient cause.

(JASJIT SINGH BEDI)
JUDGE

September 13, 2022
sukhpreet

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No