

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

(219)

CRM-M-7574-2022

Date of Decision : February 28, 2022

Kirpal Singh

.. Petitioner

Versus

State of Punjab

.. Respondent

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. A.P.S. Deol, Senior Advocate, with
Mr. Arshdeep Singh Brar, Advocate, for the petitioner.

Mr. Sandeep Singh Deol, Deputy Advocate General, Punjab.

Mr. Arihant Jain, Advocate, with
Mr. Rishan Jain, Advocate, for the complainant.
(keeping in view the advance copy given).

HARSIMRAN SINGH SETHI J. (ORAL)

Present petition has been filed under Section 439 Cr.P.C for the grant of regular bail to the petitioner in respect of FIR No.225 dated 30.10.2021 registered under Sections 307, 506, 109, 34 and 120-B of the IPC, 1860 and Sections 25 and 27 of the Arms Act, 1959 at Police Station Dirba, District Sangrur.

Learned senior counsel for the petitioner argues that the petitioner has been roped in the present FIR only on the basis of the statement of one Gurjant Singh according to which, the petitioner is part of the conspiracy, which led to the incident, which took place on 29.10.2021 wherein, co-accused namely Karamjit Singh @ Karma had used firearm to

cause injuries to the victims. Learned senior counsel for the petitioner submits that first of all, statement of Gurjant Singh is such that it does not state whether, the petitioner instigated the co-accused so as to direct the said co-accused to give effect to the incident, which happened on 29.10.2021 as to inflict injury upon the victims and even otherwise, initially, when the said statement of Gurjant Singh was appreciated during investigation by a DSP level Officer, the petitioner was not found involved in any conspiracy but later on when the same statement was taken into consideration by a Special Investigation Team, the petitioner was found to be involved in the said case being conspirator, which led to the incident, which took place on 29.10.2021 wherein, two sons of the complainant got injured by the use of firearm at the hands of co-accused namely Karamjit Singh @ Karma. Learned senior counsel for the petitioner further submits that in fact, the petitioner has been involved due to the political rivalry and status, which he carries and even the incident, which took place on 29.10.2021, was on account of elections to the Cooperative Society and the petitioner was roped in by the complainant party, being a member of the opposite political camp and as the petitioner is behind the bars since 07.01.2022, he may kindly be extended the benefit of regular bail as the investigation is already over and challan has been presented.

Notice of motion.

Mr. Sandeep Singh Deol, learned Deputy Advocate General, Punjab, who is present in the Court, keeping in view the service of advance copy of petition, accepts notice on behalf of the respondent-State. Mr. Arihant Jain, Advocate, who is also present in the Court, keeping in view the service of advance copy of petition, accepts notice on behalf of the

complainant.

Learned counsel for the respondent-State argues that in the present case, the investigation has been undertaken by a Special Investigation Team and after noticing all the relevant material facts including the statement of Gurjant Singh, prima facie, the involvement of the petitioner was found to be that of a conspirator and the challan has already been presented in the competent Court of law and therefore, assertion of the petitioner that he has done no wrong, cannot be believed and the prayer of the petitioner for the grant of regular bail may kindly be declined.

Learned counsel appearing on behalf of the complainant submits that in fact, the petitioner is the one due to whom the incident took place on 29.10.2021, which fact is clear from the statement of Gurjant Singh wherein, he has stated that the petitioner imparted instructions to the co-accused to take care of the victims as they were exceeding their limits and creating political hurdles for them, due to which, the party to which the petitioner belonged, had lost Elections of the said Cooperative Society. Learned counsel for the complainant further submits that reliance being placed by the petitioner on the report of the DSP carries no weight when the same was already considered by a Special Investigation Team, which found that the petitioner was involved in conspiracy for the execution of the incident which took place on 29.10.2021 wherein, two victims have suffered firearm injuries. Learned counsel for the complainant further submits that as Gurjant Singh is yet to be examined, the prayer of the petitioner may kindly be declined as there are chances of the said witness being influenced.

I have heard learned counsel for the parties and have gone

through the record with their able assistance.

The allegation alleged against the petitioner is of conspiracy, which led to the incident, which took place on 29.10.2021 wherein, two victims suffered firearm injuries at the hand of co-accused namely Karamjit Singh @ Karma. There is no injury attributed to the petitioner inflicted upon the victims nor he was present at the site. Petitioner was not named in the FIR and he was involved on the basis of the statement given by one Gurjant Singh after a period of ten days of the incident, alleging that the petitioner is conspirator. The factum, whether the statement, which has been given by Gurjant Singh, after a period of approximately two weeks of the incident, disclose the factum of conspiracy at the hands of the petitioner, is yet to be proved during the course of trial on the basis of the evidence, which will come on record. It is a conceded position as of now that the statement of Gurjant Singh does not recite the factum that petitioner directed the co-accused that the victims should be hurt. Though, this Court is not making any observation with regard to what Gurjant Singh meant through his statement but, the said statement is yet to be proved on the basis of the evidence, which has to come on record during the course of the trial to hold that petitioner is a conspirator to the incident which occurred on 29.10.2021.

As, the petitioner is only being involved on the basis of statement of one Gurjant Singh, which is yet to be proved at the stage of trial and the investigation is already over and challan has been presented, no useful purpose will be achieved in keeping the petitioner behind the bars during the entire trial as the trial is likely to take some time before it concludes keeping in view the restricted working of the Courts due to the pandemic of Covid-19, especially when learned senior counsel for the

petitioner has undertaken before this Court that the petitioner, in case extended the concession of regular bail, will not influence the trial or the witnesses in any manner. In case of default of the above submitted undertaking, State will be at liberty to approach this Court for passing appropriate orders.

In view of the above and without commenting upon the merits of the case, it is directed that the petitioner be released on regular bail, subject to the satisfaction of the trial Court/Duty Magistrate concerned.

However, it is made clear that in case, any cogent evidence is brought on record to show that the petitioner has failed to maintain the undertaking given, as recorded hereinbefore, the order granting bail to the petitioner will liable to be reviewed.

February 28, 2022
harsha

(HARSIMRAN SINGH SETHI)
JUDGE

Whether speaking/reasoned : Yes
Whether reportable : Yes