

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

Date of decision : 25.04.2022

1.

CRM-M-11035-2021

Gurpreet Singh @ Gopi

... Petitioner

Versus

State of Punjab

... Respondent

2.

CRM-M-14013-2021

Gurcharan Singh @ Ganna

... Petitioner

Versus

State of Punjab

... Respondent

CORAM: HON'BLE MR.JUSTICE VIKAS BAHL

Present: Mr.Parminder Walia, Advocate
for the petitioner in both petitions.

Mr.Sarabjit Singh Cheema, AAG, Punjab.

VIKAS BAHL, J.(ORAL)

This common order will dispose of two petitions filed under Section 439 Cr.P.C. for grant of regular bail in FIR no.28 dated 11.03.2020 registered under Sections 307, 34 IPC and Sections 25/27/54/59 of the Arms Act (Section 201 IPC added later on) at Police Station Phase-8, Mohali, District SAS Nagar Mohali.

The first petition, i.e. CRM-M-11035-2021 has been filed by

Gurpreet Singh @ Gopi and the second petition, i.e. CRM-M-14013-2021 has been filed by Gurcharan Singh @ Ganna. With the consent of all the parties, the petition, i.e. CRM-M-11035-2021 is being taken up as lead case and the facts are being taken up from the said petition.

Learned counsel for the petitioners has submitted that both the petitioners have not been named in the FIR and were in fact not present at the spot. It is submitted that as per the FIR, three persons were involved in the incident which had taken place with respect to the injuries caused to Kamalpreet Singh and out of which, one of them was Simmo who is the person who was stated to have fired a shot which had hit the right thigh of the said complainant Kamalpreet Singh. It is submitted that the other two persons were Dhruv and Suraj and thus the present petitioners were not present at the spot. It is also submitted that in the present case, the subsequent FIR, i.e. FIR no.133 dated 26.04.2020 was registered with respect to the alleged second incident which had taken place, the facts of which should not be considered while considering the present petitions for regular bail. It is further submitted that the petitioners have been granted regular bail even in the said FIR no.133 as there is no allegation against the present petitioners even in the said FIR to the effect that they had caused any injury. It is stated that the bail petitions of the petitioners have been rejected by the Sessions Court while taking into consideration the facts of the subsequent FIR, i.e. FIR no.133. It is further stated that there is no allegation against Gurpreet Singh @ Gopi as far as the present FIR is concerned and even against Gurcharan Singh @ Ganna, the only allegation is that he had procured the pistol which was used by co-accused Simmo in firing at the complainant. It is also argued that both the petitioners have

been in custody since 04.05.2020 and there are 20 prosecution witnesses out of which 17 witnesses are yet to be examined. It is also submitted that the petitioners are not involved in other case except FIR no.133 and the present case.

Learned State counsel, on the other hand, has opposed the present petitions for regular bail and has submitted that as far as Gurcharan Singh @ Ganna is concerned, he is the one who had procured the pistol which was used by co-accused Simmo in the present occurrence. It is submitted that the Court below has rightly taken into consideration the allegations in the subsequent FIR as one of the police officials has been injured in the same. The other facts have however not been disputed by learned State counsel.

This Court has heard learned counsel for the parties and has perused the record.

It is not in dispute that the petitioners have not been named in the present FIR. As per the incident which has been detailed by the complainant Kamalpreet Singh in the present FIR, it was co-accused Simmo who had fired a shot which hit his right thigh and two persons, who were initially not named but whose names had come up during investigation, were Dhruv and Suraj, who were alleged to have accompanied Simmo and had caused injury to Kamalpreet Singh. The petitioners were neither present at the spot nor any injury has been attributed to them. With respect to FIR no.133, suffice it is to say that the allegations in the said FIR are not of the primary importance for consideration of bail in the present case. Moreover, even as per the allegation in the FIR no.133, the petitioners had not been attributed any injuries much less to the police officials. The petitioners have

already been granted regular bail in the said FIR no.133. There is no allegation against Gurpreet Singh @ Gopi as far as present FIR is concerned and the allegation against Gurcharan Singh @ Ganna is also to the effect that it was him, who had procured the pistol which was used by Simmo in the present alleged occurrence. Both the petitioners have been in custody since 04.05.2020 and there are 20 prosecution witnesses, out of which 13 witnesses are to be examined and thus the trial is likely to take time.

Keeping in view the above said facts and circumstances, the both the petitions are allowed and the petitioners are ordered to be released on bail on their furnishing bail / surety bonds to the satisfaction of the concerned trial Court/ Duty Magistrate and subject to them not being required in any other case.

However, it is made clear that in case, any act is done by the petitioners to threaten or influence the complainant or any of the witnesses, then it would be open to the State to move an application for cancellation of bail granted to the petitioners.

Nothing stated above shall be construed as a final expression of opinion on the merits of the case and the trial would proceed independently of the observations made in the present case which are only for the purpose of adjudicating the present bail petition.

(VIKAS BAHL)
JUDGE

April 25, 2022
Davinder Kumar

Whether speaking / reasoned
Whether reportable

Yes/No
Yes/No