

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-11508-2022
Reserved on: 07.04.2022
Pronounced on: 07.05.2022

Sukhjeet Singh ...Petitioner

Versus

State of Punjab ...Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. Mansur Ali, Advocate for the petitioner.

Mr. Harsimar Singh Sitta, AAG, Punjab.

Mr. Rajinder Singh Bains, Senior Advocate with
Ms. Aarushi Garg, Advocate for the complainant.

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
05	05.01.2022	Tanda, District Hoshiarpur	115, 120-B, IPC and 25, 27 of Arms Act (34 IPC & 54, 59 of Arms Act added later on)

1. The petitioner, incarcerated upon his arrest in the FIR captioned above, came up before this Court under Section 439 of Code of Criminal Procedure, 1973 (Cr.P.C) seeking bail.
2. In paragraph 5 of the bail petition, the accused declares that he has no criminal antecedents.
3. On Jan 05, 2022, based on secret information, the police searched a car, and from the two persons, sitting in the car, the police recovered a pistol, 7 live cartridges from the petitioner and a revolver with 5 live cartridges from the other occupant Gurjit Singh.
4. Ld. Counsel for the petitioner contends that the pre-trial incarceration would cause an irreversible injustice to the petitioner and family.
5. Ld. counsel representing the State opposes bail. The contention of behalf of the intended victim filed through an affidavit, and paragraphs 1 to 5 read as follows:

1. *It is a case of murder contract given to the accused petitioner from Canada by Jang Bahadur, who is proclaimed offender in two murder cases of Hoshiarpur district of the deponent Harbhajan Singh Dhatt. Jang Bhadur with his four brothers namely Nishan Singh, Prince, Prabhjot and Satnam Singh have formed a criminal gang and against them till today some 14 FIRs have been registered from drugs to murder. The details of 11 FIRs have been collected by the answering deponent. Two of the brothers Nishan Singh and Satnam Singh have died in gang wars and Prabhjot is in judicial custody in criminal cases even today. Jang Bahadur is PO and have escaped to Canada and is organizing criminal activities from there. The details of the FIR are annexed with this reply affidavit as Annexure R-2/1. Some of the photographs showing gang activities and their weapons are evidence from their face book profiles as well as on You Tube also. True copies of the same is placed on record as Annexure R-2/2.*

2. *The sequence of events begins with FIR 37 dated 21.07.2013 when one Kuldeep Singh was murdered. The murder was executed with professional deception and skill as after strangulating Kuldeep Singh, his body was thrown in the canal. Initially it was treated as a case of suicide but subsequently after post-mortem medical report it was revealed that it is a case of murder and accordingly a criminal complaint under section 302 was also filed against Jang Bahadur, the man who had given the present contract for killing the deponent. The deponent had played an active role in registration of FIR against Jang Bahadur and it was got registered only after much protest by the deponent. In the FIR the complainant statement was attested by the deponent and it is clear from the bare reading of the FIR itself. Later another person Iqbal Singh Kokla of the PSPC Ltd. was attacked by the same gang controlled by Jang Bahadur for the reason that he had also played an important role in helping the deponent for registration of FIR against Jang Bahadur in the murder of Kuldeep Singh. For this murderous attack on Iqbal Singh Kokla FIR 62 dated 15.05.2014 under Section 307 was registered against three brothers of Jang Bahadur who had executed the murder attempt and he was granted security after this attack.*

3. *Later on 06.12.2017, brother of Kuldip Singh, namely Amrik Singh was murdered and the three named accused are Jang Bahadur*

and his two brothers and FIR 75 dated 06.12.2017 was registered against them and in this case also Jang Bahadur is proclaimed offender. Thus Jang Bahadur who had given the contract for killing and provided weapons and money to the petitioner is proclaimed offender in two murder cases.

4. *Jang Bahadur, who had given contract for murder to the petitioner is aggrieved of the deponent because of his and his family welfare activities in the region. His family member is continuously Sarpanch of the village Ambala Jattan since 1953. The deponent's family had established Khalsa Senior Secondary School in 1914 at village Gardiwala on their own land. They also established Khalsa College again on their own land in 1966 apart from a welfare trust for helping poor students. Further the deponent is son-in-law of younger sister of Shaheed Bhagat Singh who is a legendary Martyr not only of Punjab but of India and therefore the family is held in high esteem and this is also reason that most of the criminal gangsters keep enmity with this family for they oppose all criminal activities in their area.*

5. *The conspiracy was unearthed/revealed or came out in the open accidentally on the basis of usual intelligence work and information received by the local police. On 05.01.2022 the police party was present at road leading towards village Buddi from village Harshi and one secret informer informed that Sukhjeet Singh @ Sukha son of Kuljeet Singh R/o village Kurala, PS Tanda District Hoshiarpur and Gurjeet Singh @ Mintu son of Narinder Singh R/o Munak, PS Tanda District Hoshiarpur were going in Alto car bearing No.PB-08-CE-1717 and carrying huge arms and ammunition and planning to kill the persons who are against the gang of Jang Bahadur @ Jang. On this basis founding the information to be reliable above mentioned FIR No.5 dated 25.01.2022 was registered u/s 115/120-B of IPC.*

REASONING:

6. The petitioner was apprehended with a firearm and live cartridges. The grounds taken in the bail petition are not supported by any corroborative material, and are rather subject matter of trial. An analysis of the allegations and evidence collected does not warrant the grant of bail to the petitioner.

7. In Gurbaksh Singh Sibbia v State of Punjab, 1980 (2) SCC 565, (Para 30), a Constitutional Bench of Supreme Court held that the bail decision must enter the cumulative effect of the variety of circumstances justifying the grant or refusal of bail. In Kalyan Chandra Sarkar v Rajesh Ranjan @ Pappu Yadav, 2005 (2) SCC 42, (Para 18) a three-member Bench of Supreme Court held that the persons accused of non-bailable offences are entitled to bail if the Court concerned concludes that the prosecution has failed to establish a prima facie case against him, or despite the existence of a prima facie case, the Court records reasons for its satisfaction for the need to release such person on bail, in the given fact situations. The rejection of bail does not preclude filing a subsequent application. The courts can release on bail, provided the circumstances then prevailing requires, and a change in the fact situation. In State of Rajasthan v Balchand, AIR 1977 SC 2447, (Para 2 & 3), Supreme Court noticeably illustrated that the basic rule might perhaps be tersely put as bail, not jail, except where there are circumstances suggestive of fleeing from justice or thwarting the course of justice or creating other troubles in the shape of repeating offences or intimidating witnesses and the like by the petitioner who seeks enlargement on bail from the Court. It is true that the gravity of the offence involved is likely to induce the petitioner to avoid the course of justice and must weigh when considering the question of jail. So also, the heinousness of the crime. In Gudikanti Narasimhulu v Public Prosecutor, (1978) 1 SCC 240, (Para 16), Supreme Court held that the delicate light of the law favors release unless countered by the negative criteria necessitating that course. In Prahlad Singh Bhati v NCT, Delhi, (2001) 4 SCC 280, Supreme Court highlighted one of the factors for bail to be the public or the State's immense interest and similar other considerations. In Dataram Singh v State of Uttar Pradesh, (2018) 3 SCC 22, (Para 6), Supreme Court held that the grant or refusal of bail is entirely within the discretion of the judge hearing the matter and though that discretion is unfettered, it must be exercised judiciously, compassionately, and in a humane manner. Also, conditions for the grant of bail ought not to be so strict as to be incapable of compliance, thereby making the grant of bail illusory.

8. In the light of ratio of the judicial precedents mentioned above, the petitioner's case does not fall in the category of cases where bail ought to be granted.

9. In the facts and circumstances peculiar to this case, and for the reasons mentioned above, the petitioner fails to make a case for bail at this stage. However, it shall be open for the petitioners to file new bail application(s) in changed circumstances or after recording the statements of witnesses other than official and formal witnesses, whichever is earlier. The dismissal of this petition shall not come in the way while considering the fresh petition(s).

10. Any observation made hereinabove is neither an expression of opinion on the merits of the case nor shall the trial Court advert to these comments.

Petition dismissed in aforesaid terms. All pending applications, if any, stand disposed.

(ANOOP CHITKARA)
JUDGE

07.05.2022
Jyoti-II

Whether speaking/reasoned:	Yes
Whether reportable:	No.