

202-D

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-13904-2021 (O&M)
Date of Decision:15.02.2022

Gurdev Singh

.. Petitioner

Vs.

State of Punjab

..Respondent

CORAM: HON'BLE MR. JUSTICE MANOJ BAJAJ

Present: Mr. Bipan Ghai, Sr. Advocate with
Mr. Prabhdeep Singh Binder, Advocate for the petitioner.

Mr. Ramdeep Partap Singh, DAG, Punjab.

...

Manoj Bajaj, J. (Oral)
CRM-3886-2022

Application is allowed, subject to all just exceptions. Annexure

P-4 is taken on record.

Main case

Petitioner has prayed for grant of regular bail under Section 439 Cr.P.C, pending trial in case FIR No.05 dated 09.01.2021 registered under Sections 324, 323, 336, 427, 148 and 149 IPC and Sections 25/27 Arms Act (Sections 307/120-B IPC added later on) at Police Station Sujampur, District Pathnakot. The petitioner is in custody since his arrest on 14.01.2021.

The FIR was registered on the statement of Harjit Singh and the allegations as noticed by the Id. Addl. Sessions Judge, Pathankot in the order dated 04.03.2021 are as under:

“Brief facts of the case are that FIR was registered on the statement of complainant Harjit Singh and he stated that on 08.01.2021, he along with Gurdarshan Singh alias Lucky, Harwinder Singh and Gulab Singh were sitting in the office of crusher and they were talking with each other regarding

business. At about 6 PM, Abshiek Sharma alias Kaku armed with iron rod, Akash Sharma armed with dang, Ashwani Kumar armed with pistol, Baldev Pawan armed with datar, Rishav Sharma armed with baseball, Fauji son of Hanwat Rai armed with iron rod, Master Shanti Parkash armed with dang, Gurdev Singh armed with pistol, Vinod Kumar armed with pistol, Baba Gurdit Singh Nihang armed with Kirpan, Amit Tarehan armed with iron rod and 15/20 unknown persons along with Nihang Sikh in six vehicles Bolero, Innova, Fortuner, Cars and canter had come by raising lalkaras in Crusher. Gurdev Singh raised lalkara in a loud voice stating that they be taught a lesson to sit in crusher and he fired 2/3 shots in air and in the meantime Vinod Kumar above said, who was armed with pistol of Amit Trehan and Ashwani Kumar both fired air shots with their respective pistols and Gurdev fired shot with his pistol on him with intention to kill him. He suddenly went aside and the said shot hit on the leg of Gurdarshan Singh who was standing at the door of office. Ashwani Kumar took the datar from unknown personal and gave the blow from reverse side of said datar which hit on his head. Abhishek Kumar gave the dasti iron rod blow which landed on his left wrist, Akash Sharma gave the dang blow which hit on his left leg under the knee, Rishav Sharma gave the blow of baseball which hit on his lower right leg. Thereafter Fauji gave the iron rod blow which hit on his left thigh. He fell on the ground stomach-wise. Baldev Pawan gave datar blow while he was lying on the ground which hit on the back side of his neck. Master Shanti Parkash Sharma gave dang blow on him while he was lying on the ground which hit on his waist. They all Harvinder Singh, Gurdarshan Singh and Gulab Singh gave numerous injuries and injured them. They raised alarm “ Mar Ditta Mar Ditta” which attracted to the persons of nearby crushers and thereafter all the assailants ran away from the spot along with their respective weapons and while going they also damaged their vehicles along with standing vehicles at crusher. The entire occurrence was witnessed by Munshi Shiv Mahajan employed at Crusher. The injured were removed to hospital for treatment. The offence was made out under Sections 307, 324, 325, 336, 427, 323, 148, 149, 120-B of IPC read with Section 25/27/54/59 of Arms Act.”

Learned Senior counsel has argued that in the alleged occurrence, both sides had suffered injuries and petitioner is alleged to have caused gunshot injury to Gurdarshan Singh @ Lucky, which is on the non-vital part of his body. It is further pointed out by the learned senior counsel that on the statement of co-accused of the petitioner, namely, Jaga Masih s/o

Kala Masih, a cross case bearing DDR No.45 dated 11.01.2021, under Sections 336, 323, 324, 148 and 149 IPC and Sections 25 and 27 Arms Act also stands registered against complainant Harjeet Singh and others. According to him, the investigation of the case is complete, as final report stands filed on 27.03.2021 and nine of the accused of the petitioner have been declared innocent. He has pointed out that the petitioner is in custody since his arrest on 14.01.2021 and as the trial is not making any headway, he deserves the concession of regular bail.

Learned State counsel assisted by SI Harmesh Kumar has opposed the prayer and argued that the petitioner was armed with a pistol and during investigation, the weapon of the offence was recovered from him. However, it is not disputed that after committal of the case, the case is pending for consideration on charge. Learned State counsel, on instructions further states that the petitioner is not involved in any other case of similar nature.

After hearing the learned counsel for the parties, considering the above background and custody of the petitioner, this Court is of the opinion that though the case has been committed to the Court of Sessions, but even charges have not been framed so far, therefore, the conclusion of trial would consume considerable time. Thus, the further detention of the petitioner behind the bars may not be useful for any purpose, who is presently confined in judicial custody for the last more than a year.

Resultantly, without meaning any expression of opinion on the merits of the case, it is ordered that the petitioner be released on regular bail in the above case, subject to his furnishing requisite bail bonds/surety bonds to the satisfaction of the trial Court/Duty Magistrate concerned.

The petition is allowed.

15.02.2022
Jasmine Kaur

(MANOJ BAJAJ)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes No
Yes No