

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-14739-2021
Reserved on: 01.04.2022
Pronounced on:28.04.2022

Raj Kumar @ Lovepreet @ Lovely ...Petitioner

Versus

State of Punjab ...Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. Arjun Sheoran, Advocate and
Ms. Anjali Sheoran, Advocate for the petitioner.

Ms. Jaspreet Kaur, AAG, Punjab.

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
144	28.06.2020	Samana, District Patiala	13/16/18/20 of the Unlawful Activities (Prevention) Act, 1967 (Amendment 2012) and 25 of the Arms Act, 1959

1. The petitioner, incarcerated upon his arrest in the FIR captioned above, has come up before this Court under Section 439 of Code of Criminal Procedure, 1973 (Cr.P.C) seeking bail.
2. In paragraph 18 of the bail application, the accused declares the following criminal antecedents:

Sr. No.	FIR No.	Date	Offences	Police Station
1.	154	16.06.2020	13, 18, 20 of Unlawful Activities Prevention Act, 1967; 201, 120-B of IPC and 25, 54, 59 of Arms Act.	Special Cell, Delhi

3. The allegations against the petitioner are for organizing a group in connivance of people residing abroad, and after that making threatening calls to persons who were allegedly raising issue against Punjab terrorism.
4. Ld. Counsel for the petitioner contends that the pre-trial incarceration would cause an irreversible injustice to the petitioner and family.

5. While opposing the bail, Ld. counsel representing the State contends that given the criminal past, the accused is likely to indulge in crime once released on bail.

REASONING:

6. In Paramjeet Singh v. State of Punjab, CRM-M 50243 of 2021, this court observed,

While considering each bail petition of the accused with a criminal history, it throws an onerous responsibility upon the Courts to act judiciously with reasonableness because arbitrariness is the antithesis of law. The criminal history must be of cases where the accused was convicted, including the suspended sentences and all pending First Information Reports, wherein the bail petitioner stands arraigned as an accused. In reckoning the number of cases as criminal history, the prosecutions resulting in acquittal or discharge, or when Courts quashed the FIR; the prosecution stands withdrawn, or prosecution filed a closure report; cannot be included. Although crime is to be despised and not the criminal, yet for a recidivist, the contours of a playing field are marshy, and graver the criminal history, slushier the puddles.

7. The concerned Dy. SP has filed status report, and it would be appropriate to refer the relevant portions, which read as follows:

"11. That it is pertinent to mention here that the above noted case was registered by name against accused Raj Kumar alias Lovepreet Singh alias Lovely son of Amrik Singh r/o village Shadipur District Kaithal Haryana. Further disclosure statement of accused-Sukhchain Singh was recorded vide Zimni No. 1 (21) dated 28.06.2020 about the accused-Raj Kumar alias Lovepreet Singh alias Lovely, who was already arrested in case No. 154 dated 16.06.2020 u/s 13, 18, 20, Unlawful Activities Prevention Act, 1967 u/s 201, 120-B IPC and 25/54/59 Arms Act was also registered at Special Cell, Delhi against the petitioner and the weapon was already recovered from the petitioner in FIR No. 154/2020. Therefore, production warrant of the petitioner were obtained from the Court of learned SDJM Samana on 09.11.2020 and the petitioner was brought on 18.11.2020 from Mandauli Jail, Delhi and was produced in Court learned SDJM Samana on 19.11.2020 and was arrested after obtaining the permission from the Court of learned SDJM Samana. Five days police remand of the petitioner was obtained and during interrogation, the petitioner admitted that he was running mobile phone No. 87278-23246 with him and he had prepared his facebook Lovely Khalstani and he was in touch with the accused Sukhchain Singh and Amritpal Singh through this facebook, which has been taken in into police by the Delhi police at the time of his arrest. The petitioner had also procured mobile phone from abroad and he was in touch with Dosanjh and

Cheema Italy, Babbu U.S.A., Badda Bapu England etc. The petitioner was called by Sukhchain at Bus Stand Sirhind, where he reached on his motor cycle. Then they reached at Aam Khas Bagh, Sirhind on the motor cycle of Sukhchain Singh, where the petitioner shown him pistol, which was loaded with 2 live cartridges. Then commentary was made by the Sukhchain Singh and video was prepared by the petitioner. Then the petitioner send the video of threat to Parveen Kumar, who was already joined in Manji Thok Mehkma, who was speaking against Sant Jarnail Singh Bhindrawala, Lovepreet Singh. He also send this video to Dosanjh from his phone. Before preparing the video the petitioner handed over his pistol to accused Sukhchain Snigh, which was taken back by him after preparing the video.

12. *That the concerned attested photocopies of documents including FIR, challan relating to accused Raj Kumar alias Lovepreet Singh alias Lovely were sought from Special Cell, Delhi on mail vide letter No. 7385/ADSP Samana dated 09.12.2020 due to farmer agitation, which were received. According to which the mobile phone No. 87278-23246 of the petitioner recovered by the Special Cell, Delhi in case FIR No. 154 dated 16.06.2020 was sent for analysis, in which various photographs of terrorist activities along with weapon and radicals, showing Referendum 2020 on the T-Shirt, were retrieved. These documents have been placed on judicial record of the learned trial Court along with supplementary challan u/s 173 (8) Cr.P.C.*
13. *That the record of Mobile No. 91999-97143, 97791-84143, 76579-84143 was sought from Nodal Officer Company Airtel Chandigarh and to obtain certificate u/s 65-B of Evidence Act of the record of Mobile No. 62835-02626, 62842-02342 from Nodal Officer Jio Reliance Telecom Ltd. Punjab, Mohali send letter No. 3469/M/5P INV dated 10.12.2020. According to calls details of mobile phone of the accused-Sukhchain Singh 91999-97143, 97791-84143 and 6283502626, he was in touch with accused Lovepreet Singh on his mobile phone No. 87278-23246 and accused Amritpal Singh on his mobile phone No. 62842-02342.*
14. *That Parveen Sharma son of Jagdish Chand resident House No. 733 14 Gharama Patti Samana's Mobile Phone MI 5-PRO, whose IMEI: 867194037577809, IMEI2 No. 867194037577817, in which Jio SIM No. 90233-00087 is running, accused-Lovepreet Singh gave threats to him through message on Whatsapp and submitted CD after recording of his mobile phone. "*

8. A perusal of the petition does not refer to any averment based on which this court is assured that if this recidivist is released on bail, then he shall not indulge in criminal behavior. Moreover, considering the association of anti-Indian agents based in foreign countries, the petitioner being a flight risk is writ large. Apart from this, the allegations are very grave, and the trial is at an advanced stage.
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.
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

28.04.2022
Jyoti-II

Whether speaking/reasoned: Yes
Whether reportable: No.