

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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CRM-M-19479 of 2022
Date of Decision:11.07.2022

Arshdeep Singh @ Lucky

---Petitioner

versus

State of Punjab

---Respondent

CORAM: HON'BLE MR. JUSTICE VINOD S. BHARDWAJ

Present: Mr. Sandeep Gahlawat, Advocate and
Ms. Amandeep Kaur, Advocate
for the petitioner

Mr. Karanbir Singh, AAG, Punjab

VINOD S. BHARDWAJ, J. (ORAL)

The instant petition has been filed under Section 439 of the Code of Criminal Procedure, 1973 by the petitioner for seeking concession of regular bail in case bearing FIR No. 08 dated 13.01.2022 under Sections 307 and 34 of the Indian Penal Code, 1860 and Section 25/27 of the Arms Act, 1959 (Sections 302 and 201 IPC added later on) registered at Police Station Sadar Amritsar, District Police Commissionerate Amritsar.

Briefly, the facts of the case are to the effect that on 12.01.2022, the applicant/accused Arshdeep Singh alias Lucky had gone to the house of the complainant Satnam Singh at about 10.30 p.m. and has been informed that his son Gursewak Singh since deceased was called by Navdeep Singh alias Dimple at his house. The complainant received an information at about 1:00 a.m. that his son Gursewak Singh was admitted in Swift Hospital, Majitha Road, Amritsar due to a gun shot injury. The deceased was shifted to Amandeep Hospital, Amritsar where Gursewak

Singh informed him that applicant-accused and his brother Navdeep Singh alias Dimple had called Gursewak Singh to their house where they scuffled with him and during said scuffle Navdeep Singh alias Dimple fired at him from his revolver. He was thereafter taken from there by his friend Sahil Sahbir and was got admitted in Swift Hospital. It was also informed that the bullet in question hit him on the right side of his abdomen. Gursewak Singh died on 16.01.2022 and consequently, offence under Section 302 of the Indian Penal Code was also added.

Learned counsel appearing for the petitioner contends that the true genesis of the occurrence has not been revealed and that as a matter of fact, the petitioner had sustained injuries upon which the cross case/cross version has also been registered for commission of offence under Section 307 of the Indian Penal Code vide General Diary No. 48. He contends that the petitioner alongwith his family members was away to certain neighbour's to celebrate the festival of Lohri on 12.01.2022. After some time Gursewak Singh had also came in the vicinity. One Sahil Sahbir told him that Gursewak Singh has come out of the house upon which he opened the gate of the house whereupon Gursewak Singh and his brother Navdeep Singh alias Dimple, Sahil Sahbir, Jaskaran Singh alias Janti started drinking alcohol. Navdeep Singh alias Dimple called the petitioner after some time and asked him to give him some food. The same was served. At about 12.15 a.m., when the petitioner was to serve *chapatis* to the deceased, he took out a pistol from Jaskaran Singh @ Janti and fired a shot upon the petitioner with an intention to kill him. When he took a step back in order to save himself, the bullet hit in his right leg and went through. Navdeep Singh alias Dimple brother of the petitioner, upon seeing the bullet hit the

petitioner, snatched the same from Gursewak Singh and fired a shot on Gursewak Singh which hit on the right side of his abdomen. The petitioner as well as the deceased were both injured and were got admitted to the hospital. He contends that offence under Section 307 of the Indian Penal Code was registered against the deceased Gursewak Singh.

It is further argued that the shot was fired by brother of the petitioner in exercise of a right of private defence and that the petitioner is in custody since 04.02.2022. He contends that the investigation is complete and further custodial interrogation of the petitioner is not required to investigate into the matter.

Learned counsel appearing on behalf of the State submits that it is a case of version and a cross version and a case under Section 307 of the Indian Penal Code was also registered against deceased Gursewak Singh. Upon a pointed query raised as to whether the shot upon the petitioner was fired first or it was fired subsequent to the shot being fired upon Gursewak Singh. The respondent-State, on instructions from ASI Gurpreet Singh states that deceased Gursewak Singh had first fired the shot resulting in injury to the petitioner herein and that the shot fired by brother of the deceased was in response thereto. It is further contended that investigation is concluded and the case has been committed to the Court of Sessions for trial. Charge is yet to be framed. There are 38 witnesses that are to be examined in the present case. It is also not disputed that the petitioner has undergone actual custody of more than five months and that he does not suffer from any other criminal antecedent and is not involved in any other case.

I have heard learned counsel appearing on behalf of the

respective parties and have gone through the record with their assistance.

It is the case set up by the prosecution that the shot fired was first fired upon the petitioner which injured the petitioner. Thereafter brother of the petitioner snatched the pistol and fired upon Gursewak Singh. The cross case vide General Diary No. 48 was also registered against the deceased. The disputed questions of fact that arise in this case are required to be debated at the time of final judgment in the trial court.

Taking into consideration the circumstances noticed above as also the rights that have accrued in favour of the petitioner including the right of private defence; absence of any attribution to the petitioner; and the other allegation that he had called the deceased to his house on the festival of Lohri, the instant petition is allowed and the petitioner is ordered to be released on bail on his furnishing requisite bail bond/surety bond to the satisfaction of the Trial Court/Duty Magistrate, concerned.

It is made clear that the petitioner shall not extend any threat and shall not influence any prosecution witnesses in any manner directly or indirectly.

The observation made hereinabove shall not be construed as an expression on the merits of the case and the trial Court shall decide the case on the basis of available material.

The petition is allowed.

(VINOD S. BHARDWAJ)
JUDGE

11.07.2022

PARAMJIT

Whether speaking/reasoned : Yes

Whether reportable : Yes/No