

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

CRM-M-25357-2022

Date of decision: 05.08.2022

Lakhandeep @ Swaran Singh @ Waaris Randhawa

....Petitioner

Versus

State of Punjab

...Respondent

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

Present : Mr. Paras Jagga, Advocate
for the petitioner.

Mr. Karanbir Singh, A.A.G., Punjab.

VINOD S. BHARDWAJ. J. (ORAL)

1. The present petition has been filed under Section 439 of the Code of Criminal Procedure, 1973 for grant of regular bail to the petitioner in case FIR No.110 dated 18.06.2018 registered under Sections 302 & 397 of the Indian Penal Code, 1860 and Sections 25, 27, 54, 59 of Arms Act, 1959, at Police Station Sadar Patiala, District Patiala.

2. The facts of the case in brief are that the present case has been registered on the basis of statement of Balraj Singh S/o Raghbir Singh resident of Village Boharpur on the allegations that he is working on Guru Nanak Petrol Pump, Village Chamarheri from the last nine months. On 18.06.2018, he along with one Kuldeep Singh, who after getting the oil filled in his tractor was talking with each other. Then three persons, one Sikh and two clean shaven men came there with covered faces and pointed

weapons towards them and asked them to give cash. On refusal Sikh boy fired gun shot in the chest of Kuldeep Singh and said persons snatched Rs.5000/- from Jagtar Singh. Then Dhaba owner Hari Singh and Davinder Singh came out, on which accused persons also fired shots which hit in the stomach of Davinder Singh. Then all the three boys on their motor cycles fled away from the spot. On the basis of statement, FIR was registered. On 17.06.2018, supplementary statement of Balraj Singh was recorded in which he recorded the name of the accused.

3. Learned counsel for the petitioner *inter alia* contends that as per the concluded investigation in the present case, the allegations against the petitioner as has been crystallised by the investigating agency is that the petitioner had allegedly fired a shot from a country made pistol which hit the deceased Davinder Singh. He contends that the aforesaid weapon used in the commission of the offence has actually been recovered from co-accused Harpreet Singh and not from the petitioner. It is also pointed out that the petitioner has been in custody since 30.06.2018 and was taken into judicial custody on 07.07.2018. He has already undergone an actual custody of 04 years and 29 days and that out of the 25 witnesses cited by the prosecution, only 7 witnesses have been actually examined. It is further contended that the petitioner cannot be attributed any role in the delay in conclusion of the trial.

4. *Per contra*, learned counsel appearing on behalf of the State of Punjab submits that two persons namely, Kuldeep Singh and Davinder Singh had died as a result of gun fire shots and that the shot to deceased-Davinder Singh is attributed to the petitioner. He submits that a disclosure

of the petitioner was recorded as per which the weapon used in the commission of the offence had been handed over by him to accused Harpreet Singh and that eventually the said weapon had been recovered at the disclosure of the said co-accused. He submits that even though 07 prosecution witnesses have already been examined, 05 witnesses have been given up and as such 11 witnesses stand concluded out of the total 25 witnesses. It is also alleged that there are two other cases that have been registered against the petitioner as per the custody certificate. He, however, does not dispute the fact that the petitioner has undergone an actual custody of 04 years and 29 days.

5. While controverting the submissions made by the counsel for the respondent-State, the petitioner submits that case FIR No.137 dated 30.06.2018 has been registered under the Arms Act at Police Station Division No.6, Jalandhar and that the other FIR pertains to the Prisons Act. He contends that the petitioner has actually undergone a custody of 04 years, 01 month and 04 days in the case registered under the Arms Act and that the same would invariably amount to the actual custody having been undergone. In any case, the consideration of the present case does not *ipso facto* amount to the petitioner being released on bail unless an appropriate order granting bail is also obtained by the petitioner in the other cases registered against him.

6. I have heard learned counsel appearing on behalf of the respective parties and have gone through the record with their assistance.

7. Taking into consideration the actual custody of more than 4 years already undergone by the petitioner and the fact that only half of the evidence has been recorded and that there is no recovery at the

instance of the petitioner, 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.

8. 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.

9. 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.

05.08.2022

ps-I

(VINOD S. BHARDWAJ)
JUDGE

Whether speaking/reasoned : Yes No

Whether Reportable : Yes No