

CRM-M-34477-2022

230

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH.

CRM-M-34477-2022.
Decided on: August 10, 2022.

Harjinder Singh @ Jinda

.. Petitioner

VERSUS

State of Punjab

.. Respondent

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

PRESENT Mr. Parminder Singh Sekhon, Advocate,
for the petitioner.

Ms. Amarjit Kaur Khurana, DAG, Punjab.

VINOD S. BHARDWAJ, J. (ORAL)

1 The instant petition has been filed under Section 439 CrPC for grant of regular bail to the petitioner in case FIR No.124 dated 06.07.2020 under Sections 302, 307, 452, 325, 324, 323, 427, 148, 149 and 120-B of the Indian Penal Code and Sections 25 and 27 of the Arms Act, 1959 registered at Police Station Nathana District, Bathinda.

2 Learned counsel for the petitioner inter alia contends that the FIR in question was registered on 06.07.2020 in relation to the incident which is claimed to have taken place on 05.07.2020. In the said version, the petitioner is only named as one amongst the alleged assailants to have

entered into the house of the complainant. The gunfire shots are attributed to one Balwinder Singh @ Pajama and Amritpal Singh. No overt act has been attributed to the petitioner in the said incident. Attention is also drawn to the statement of the complainant-Kulwinder Singh recorded under Section 161 CrPC by the Police, wherein, it is stated that there were in fact two occurrences that took place. The first incident had taken place on 03.07.2020 in which the petitioner accompanied by the other assailants had fought with the complainant family and regarding that a compromise was initiated between the parties, and so the same was not reported as no action was sought to be taken between the parties. Thereafter, the incident resulting in death of Sukhraj Singh took place on 05.07.2020. It is submitted by the complainant in his said statement under Section 161 CrPC that the petitioner Harjinder Singh @ Jinda had not accompanied the assailants for the incident that had taken place on 05.07.2020. He was taken in custody on 06.07.2020 by the Police. The petitioner had not participated in the occurrence that had taken place on 05.07.2020 resulting in death of Sukhraj Singh. He further submits that only 01 witness has been examined in the said case out of a total of 55 witnesses that are cited by the prosecution in support of their case. He contends that petitioner has already undergone an actual custody of more than 02 years and 29 days. He further contends that similarly situated co-accused Hardeep Singh @ Deepa, has already been granted the concession of regular bail vide order dated 08.04.2022, passed in CRM-M-39472-2020.

submits that the petitioner was named as an accused in the FIR by the complainant. On the said basis, he was arraigned as an accused. She has, however, not been able to controvert the fact that in the statement under Section 161 CrPC, the complainant has retracted from his allegations against the petitioner and has specifically averred that the petitioner had not participated in the occurrence that had taken place on 05.07.2020 resulting in death of Sukhraj Singh. The stage of trial is confirmed by the learned State counsel on instructions from ASI Ranjit Singh. It is further pointed out that the petitioner is also accused in other cases.

4 Controverting the aforesaid submissions, learned counsel appearing on behalf of the petitioner contends that even said co-accused was involved in other cases. He further contends that the petitioner is on bail in the said case as relied upon by the prosecution. He also vehemently submits that mere involvement of accused in another cases cannot be construed as a prohibition against grant of bail.

5 I have considered the rival submissions advanced by the respective parties.

6 A mere involvement of the accused in other cases cannot be the sole basis for rejecting the petition for bail. The said position in law is well settled in the judgment of the Hon'ble Supreme Court in the matter of Maulana Mohd. Amir Rashadi Vs. State of U.P. & Anr, 2012(2) SCC, 382. as well as the judgment of Prabhakar Tiwari Vs. State of U.P., in Criminal Appeal No.153 of 2020. The said power is not to be exercised as a means of inflicting sentence on an accused. Indisputedly, the petitioner is not

attributed any role in the incident that had taken place on 05.07.2020. As a matter of fact it is also not denied that there were two incidents and that the first incident had taken place on 03.07.2020. There is no rebuttal of the submission that in the statement under Section 161 CrPC, the complainant has retracted his allegations against the petitioner and has specifically stated that the petitioner was not involved in the incident that had taken place on 05.07.2020. Besides, the petitioner has already undergone an actual custody of more than 02 years and 29 days. Only one witness has been examined so far. There are 55 witnesses to be examined by the prosecution. She, however, could not controvert the fact that case of the petitioner is at par with the case of the aforesaid accused. It has also not been controverted that similarly placed co-accused have been granted the concession of bail and that the case of the petitioner is at par with the said co-accused. Conclusion of the trial is likely to take long time. No further interest of justice would be served by continued incarceration of the petitioner.

7 In view of the above facts noticed, I deem it appropriate to enlarge the petitioner on bail. Accordingly, the present petition is allowed and the petitioner is admitted on regular bail subject to his furnishing bail bonds/surety bonds to the satisfaction of 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

CRM-M-34477-2022

as an expression on the merits of the case and the Trial Court shall decide the case on the basis of available material.

August 10, 2022.	(VINOD S. BHARDWAJ)
raj arora	JUDGE
Whether speaking / reasoned	Yes / No
Whether reportable	Yes / No