

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

(234)

CRM-M-34837-2022

Date of decision: - 16.08.2022

Jagtar Singh @ Tari

....Petitioner

Versus

State of Punjab

.....Respondent

CORAM : HON'BLE MR. JUSTICE VIKAS BAHL

Present:- Mr. Vikas Arora, Advocate, for the petitioner.

Mr. Sarabjit S. Cheema, AAG, Punjab.

VIKAS BAHL, J. (ORAL)

This is a first petition under Section 439 Cr.P.C. for grant of regular bail to the petitioner in FIR no.278 dated 26.12.2021 registered under Sections 307, 34, 120-B, 489, 411 IPC and Sections 25/27 of the Arms Act, 1959 at Police Station Sadar Samana, District Patiala.

Learned counsel for the petitioner has submitted that in the present case, the petitioner has been in custody since 30.12.2021 and there are 23 witnesses and the charges have not been framed as yet, thus, the trial is likely to take time and the petitioner is not involved in any other case. It is further submitted that in the FIR it has specifically been stated that there were two unknown persons riding on a motor cycle, one of whom, had caused a gun shot injury on the left side of waist of the injured Gurjit Singh, who is the younger brother of the complainant Paramjit Singh. It is submitted that it has been mentioned in the FIR that

the complainant had specifically stated that he could identify the accused persons if/when brought before him and the petitioner had not been named in the FIR by the complainant. It is further submitted that the petitioner has been arrayed as an accused person after a delay of 5 days from the date of the alleged occurrence and after 4 days from the registration of the FIR, in pursuance of supplementary statement recorded by complainant on 30.12.2021, in which, he has stated that he had doubts regarding Resham Singh and the present petitioner Jagtar Singh @ Tari at the time of registration of the FIR and he had now (at the time of recording supplementary statement) found out that the said persons were Resham Singh and the present petitioner, amongst others who were present at the spot and that he recognized Resham Singh and the present petitioner as they used to visit the house of his brother as the said Resham Singh had an illicit relationship with the wife of his brother. Learned counsel for the petitioner has submitted that as per the supplementary statement, the complainant knew the present petitioner and said Resham Singh from before and yet did not name either the present petitioner or the said Resham Singh at the time of registration of the FIR. It is also submitted that the petitioner has been falsely implicated and the motive of false implication is clear from a reading of the supplementary statement itself, inasmuch as, as per the version of the complainant, co-accused Resham Singh had an illicit relationship with the sister-in-law of the complainant and the present petitioner is a friend of said Resham Singh. It is stated that the said Resham Singh has already been granted the concession of regular bail by this Court, vide order dated 01.08.2022,

passed in CRM-M-19811-2022.

Learned State counsel on the other hand has opposed the present petition for regular bail and has submitted that one stolen motorcycle and a country made revolver .315 bore have been recovered from the present petitioner and he actively participated in the commission of the crime, although, the injuries which were declared dangerous to life have been attributed to co-accused Resham Singh.

This Court has heard learned counsel for the parties and has perused the paper book.

The petitioner has been in custody since 30.12.2021 and there are 23 witnesses and since the charges have not been framed as yet, the trial is likely to take time and the petitioner is stated to be not involved in any other case. A perusal of the FIR would show that the petitioner has not been named in the FIR and the complainant had specifically stated that he could recognise the persons who had committed the alleged offence when confronted. The petitioner has been named as an accused by the complainant in a supplementary statement which was recorded on 30.12.2021, i.e., after a delay of 4 days from the registration of the FIR and as per the said supplementary statement, he had stated that he knew the present petitioner and Resham Singh as Resham Singh had an illicit relationship with the sister-in-law of the complainant and he along with the present petitioner used to visit the house of brother of the complainant, which was adjoining to the house of the complainant. The arguments of learned counsel for the petitioner to the effect that since, as per the supplementary statement dated 30.12.2021, the petitioner was

known to the complainant, however, the complainant had not even named him at the time of registration of the FIR, raises an arguable point in favour of the petitioner and cannot be outrightly rejected. The said aspect would be finally adjudicated during the course of trial. Moreover, co-accused of the petitioner, namely, Resham Singh has already been granted the concession of regular bail by this Court, vide order dated 01.08.2022, passed in CRM-M-19811-2022 and the case of the present petitioner is on a higher footing than that of said Resham Singh.

Keeping in view the above said facts and circumstances, the present petition is allowed and the petitioner is ordered to be released on bail on his furnishing bail / surety bonds to the satisfaction of the concerned trial Court/ Duty Magistrate and subject to him not being required in any other case.

However, it is made clear that in case, any act is done by the petitioner to threaten or influence the complainant or any of the witnesses, then it would be open to the State to move an application for cancellation of bail granted to the petitioner.

Nothing stated above shall be construed as a final expression of opinion on the merits of the case and the trial would proceed independently of the observations made in the present case which are only for the purpose of adjudicating the present bail petition.

August 16, 2022
naresh.k

(VIKAS BAHL)
JUDGE

Whether reasoned/speaking?
Whether reportable?

Yes/No
Yes/No