

CRM-M-36216 of 2022

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

CRM-M-36216 of 2022
Date of decision: 07.12.2022

Lovepreet Singh

.....Petitioner

versus

State of Punjab

.....Respondent

CORAM: HON'BLE MR. JUSTICE NAMIT KUMAR

Present: Mr. S.P.S. Sidhu, Advocate, for the petitioner.
Mr. Ravinder Singh, AAG, Punjab.

NAMIT KUMAR, J. (ORAL)

In compliance of order dated 21.11.2022, learned State counsel has filed status report dated 07.12.2022 by way of an affidavit of Bikramjit Singh Brar, Deputy Superintendent of Police, Sub Division Zirakpur, District SAS Nagar (Mohali), on behalf of the respondent-State, which is taken on record.

This petition has been filed by the petitioner under Section 439 Cr.P.C. seeking regular bail in case FIR No.376 dated 10.10.2020 under Sections 302, 506, 120-B, 148, 149 IPC and Sections 25, 27 of the Arms Act, 1959 (offence under Sections 471, 472, 473 IPC added and Section 25 of the Arms Act, 1959 deleted lateron) registered at Police Station Zirakpur, District SAS Nagar, Mohali.

The facts of the case in brief are that the complainant made a statement before the police that his brother Anil Kumar was doing private

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work with him. He along with his parents had gone for visiting their village Chandpur District Mandi for about 10/12 days. On 09.10.2020 his brother Anil Kumar along with his friend Manish Verma who was residing as tenant at Flat No. 105-B, Block Phase-1, Maya Garden came to VIP Road Zirakpur. The night around 2:30 a.m. his friend Amandeep Singh son of Harbans Singh called the complainant. He told him Anil along with his friends went for the celebration of birthday of his other friend Vinay Sharma at Playground Club Sector 26 Chandigarh. Thereafter they had food at Sethan's Dhaba at Zirakpur. They were going in a Fortuner car bearing No. HR02AG0054 to the flat of Manish Verma via VIP Road. When they reached near Shi Shi Complex, then another Fortuner car bearing number PB04AC0053 that was going in front of their vehicle was overtaken by them. The driver of the other vehicle chased their vehicle and abused them. He went a little further and parked his car in front of their car and hit it. Two young men and a girl were in the car. Both the two young men got out from the car and threatened to kill and abused them and even punched them. He told his friend Manish about this quarrel. In the meantime his friend Manish and Anil Kumar reached the spot near Domino's Pizza VIP Road. The above said accused persons along with girl went away from the spot after threatening them to kill and said that wait a few minutes will show the result to overtake their car. About 10 minutes later, both the young men along with the girl and another red Swift vehicle number of Himachal Pradesh in which three-four unknown young men were riding arrived. The two young men and three-four unknown persons got out from their cars. A young man in the Fortuner car had a pistol and as soon as he arrived, he started abusing

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them. Around 01:35 a.m. his friend Manish Verma and Anil Kumar stopped the above said accused from abusing them and tried to make them understand, then a young man holding a pistol in his hand raised a 'lalkara' that "I am Happy Brar Faridkotia , I will show you the result " , and all the other unknown persons also raised ' lalkara ' . The accused had given threat to kill them. In the meantime the accused Happy Brar Faridkotia had fired 3-4 rounds by the pistol which was in his hand, into the stomach of Anil Kumar. Anil Kumar fell on the ground oozing with blood. Thereafter all these young men started beating him and his friend. When he raised alarm " Marta Marta " , then all the accused persons along with Happy Brar Faridkotia fled away from the spot in their respective vehicles with their weapons. Thereafter he along with his friend Manish and others rushed to Care Hospital VIP Road for the treatment of his injured friend Anil Kumar, where in the emergency ward the doctor examined his friend Anil Kumar and declared him dead. The dead body of Anil Kumar had been kept at Mortuary House Civil Hospital Dera Bassi. The reason for this act was that the aforesaid Happy Brar had objected to overtaking his vehicle and all the perpetrators had conspired with each other and carried out a deadly attack on them. The complainant was informed by Amandeep Singh and the complainant made his statement before the police. On the statement of the complainant the FIR was registered.

Learned counsel for the petitioner has argued that deceased-Anil Kumar had died on account of bullet injuries which are alleged to have been fired by Happy Brar who is in custody. It is contended that from the petitioner Fortuner car has been recovered. There is no attribution or overt

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act resulting in any injury to the deceased at the hands of the petitioner. It is further contended that petitioner is not involved in any other case. It is, thus, contended that there are no criminal antecedents of the petitioner. Petitioner is behind bars since 12.10.2020. Besides, the trial is still at initial stage as only five witnesses have been examined out of a total of 49 witnesses cited by the prosecution. Further reference is also made to the statements of PW1 Sunil Kumar (complainant), brother of deceased Anil Kumar; PW2 Pranav; PW3 Simran Singh and PW4 Himanshu who have not substantiated the prosecution version. Learned counsel further submits that co-accused of the petitioner, namely, Ramandeep Kaur, Ramesh Kumar, Harjinder Singh Gill @ Soni and Gurlal Singh Brar have been granted regular bail by a Coordinate Bench of this Court vide common order dated 19.07.2022 passed in CRM-M-8858 of 2021, CRM-M-9075 of 2021, CRM-M-41561 of 2021 and CRM-M-19456 of 2022. Learned counsel submits that petitioner is at parity with Ramesh Kumar, who has been granted regular bail vide aforesaid order, as one Swift car has been recovered from him and from the petitioner recovery of Fortuner car has been effected. No useful purpose would be served by keeping the petitioner behind bars. Therefore, he may be granted the concession of regular bail. Challan has already been presented and charges have been framed.

Learned State counsel has however contended that the petitioner had accompanied the main assailant Happy Brar with a premeditated intent and therefore, caused murder of Anil Kumar in furtherance thereof. He, however, could not dispute the fact that no overt act in the commission of offence has been attributed to the petitioner and that

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there are no criminal antecedents of the petitioner. It is also not disputed that the petitioner has already undergone an actual custody of 02 years 01 month and 18 days as per custody certificate. The trial is still at initial stage and now fixed for prosecution evidence before the trial Court for 13.12.2022.

Having heard learned counsel for the parties, after perusal of the record and taking into consideration the facts and circumstances of the case, I deem it appropriate to enlarge the petitioner on bail.

Accordingly, the present petition is allowed and the petitioner is admitted to regular bail subject to his furnishing bail bonds/surety bonds to the satisfaction of Trial Court/Duty Magistrate, concerned.

It is made clear that the petitioner shall not extent 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 of opinion on the merits of the case and the trial Court shall decide the case on the basis of available material independently.

07.12.2022
R.S.

(NAMIT KUMAR)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No