

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

**CRM-M-36368-2022
Reserved on 29.10.2022
Date of Decision:01.11.2022**

Harbhajan Singh ...Petitioner

vs.

State of Punjab ...Respondent

Coram : Hon'ble Mr. Justice N.S.Shekhawat

Present : Mr. Vivek K.Thakur, Advocate
for the petitioner.

Mr. Shiva Khurmi, AAG, Punjab.

Mr. Rajesh Narang, Advocate
for the complainant.

N.S.Shekhawat J. (Oral)

The petitioner has prayed for grant of regular bail under Section 439 of Cr.P.C. in case FIR No.23 dated 01.04.2021 registered under Sections 302, 148, 149, 323 of IPC and Sections 25/27 of the Arms Act, at Police Station Bholath, District Kapurthala, Punjab (Annexure P-1).

Learned counsel appearing for the petitioner submits that he has been falsely implicated in the instant case on the basis of the statement made by Sukhpal Singh S/o Hardev Singh. The occurrence had taken place at about 9.15 P.M. on 31.03.2021, but the FIR was got registered by the complainant at about 11.00 A.M. on 01.04.2021 after confabulations and deliberations. He further submits that even though the complainant has attributed a specific role to the petitioner in the FIR, but he had concealed the genesis of the occurrence.

The fight had taken place between Manjot Singh, Satinderpal Singh on one hand and the complainant Sukhpal Singh, Randeep Singh (deceased) and their more than eight accomplices on the other hand. In this regard, Satinderpal Singh lodged a cross case i.e. DDR No. 15, dated 06.04.2021 and the same had been annexed with the petition as Annexure P-2. Even Satinderpal Singh and Manjot Singh, on the side of the petitioner, had also received serious injuries in the said occurrence, which had not been explained by the complainant. Since, the petitioner had no concern with the alleged occurrence, he moved an application to the higher police officials to conduct an inquiry with regard to his innocence. Learned counsel for the petitioner has referred to the inquiry report dated 28.10.2021 (Annexure P-3) extensively and submitted that the Deputy Superintendent of Police (headquarter) had conducted the inquiry, wherein it was found that due to his personal enmity, the complainant falsely named the present petitioner. He further submits that during the pendency of the inquiry against the petitioner, the challan was presented against Manjot Singh, Satinderpal Singh and Parminder Singh. Still further, it was submitted that as per the opinion of the Board of Doctors, Randeep Singh had suffered only one gun shot injury, which hit on the left side of the chest, after crossing the arm and the said injury was attributed to the main accused-Manjot Singh and a false role has been assigned to the petitioner. He further contends that even though the P.O. proceedings were initiated against the petitioner, but he appeared during the inquiry and on the statement made by ASI Jasbir Singh, the proceedings were ordered to be stopped vide order dated 03.03.2022 (Annexure P-5) passed by learned Sub-Divisional Judicial Magistrate, Bholath. He further contends that the petitioner was found innocent during the investigation,

however, after recording of the statement of Sukhpal Singh (PW-1) and Inderjit Kaur (PW-2), the petitioner was ordered to be summoned to face trial along with the other arrayed accused vide order dated 25.07.2022, passed by the learned Additional Sessions Judge, Kapurthala.

After summoning under Section 319 Cr.P.C., the petitioner approached this Court by filing a petition i.e. CRM-M-34199 of 2022, praying for anticipatory bail and the following order was passed by the coordinate Bench of this Court.

“CRM-M-34199-2022

HARBHAJAN SINGH VS STATE OF PUNJAB

Present : Mr. Vivek K. Thakur, Advocate, for the petitioner.

Learned counsel for the petitioner has submitted that the petitioner was earlier found to be innocent on an inquiry being conducted by the DSP and he even joined the investigation before the DSP and thereafter, the challan was not presented against the petitioner. He further submitted that the prosecution moved an application under Section 319 Cr.P.C in which he has been summoned and the date fixed is 10.08.2022. He further submitted that DSP conducted an inquiry on the basis of which he was declared as innocent and has also stated that the petitioner undertakes to appear before the trial Court on the date already fixed i.e. 10.08.2022.

Notice of motion.

Mr. Randhir Singh Thind, learned Deputy Advocate General, Punjab accepts notice on behalf of the State of Punjab.

In view of the undertaking given by the learned counsel for the petitioner, the petitioner is directed to appear before the learned trial Court on the date already fixed i.e. 10.08.2022. Till the time he appears before the trial Court no

coercive steps shall be taken against the petitioner. In case the petitioner files any application for the grant of bail, then the trial Court shall consider and decide the same as expeditiously as possible.

Adjourned to 17.08.2022.

(JASGURPREET SINGH PURI)
JUDGE

August 4, 2022 ”

In compliance of the order dated 04.08.2022, passed by a coordinate Bench of this Court, the petitioner applied for bail before the learned trial Court and the same was dismissed vide impugned order dated 10.08.2022. Consequently, the learned counsel for the petitioner prayed that the petitioner deserves the concession of bail.

Learned counsel for the State has vehemently opposed the prayer made by the petitioner on the ground that specific allegations have been levelled against the petitioner that he also fired shots with Manjot Singh, main accused and caused the death of Randeep Singh on a trivial issue. Even the key witnesses are yet to be examined and the petitioner may try to influence the witnesses and is not entitled for bail. He, however, submits that the investigation qua other accused has already been completed. Still further, co-accused Parminder Singh has been granted the concession of bail vide order dated 11.02.2022 in CRM-M-33019 of 2021, passed by a Co-ordinate Bench of this Court.

I have heard learned counsel for the parties and with their assistance; I have perused the case file properly.

It is not in dispute that the investigation was conducted by the Deputy Superintendent of Police (Headquarter) in the instant case and a detailed

inquiry report dated 28.10.2021 (Annexure P-3) was prepared and the petitioner was exonerated of the charge by the police. Still further, the FIR in the instant case was registered on 01.04.2021 and there are no allegations that the present petitioner ever tried to influence any witness acquainted with the facts of the case so as to dissuade him from making a statement before the trial Court. Still further, the witnesses cited in the instant case are either related to the deceased or the official witnesses, consequently, the petitioner would not be in a position to tamper with the prosecution evidence. Still further, the cross version on the basis of the statement made by Satinderpal Singh, co-accused has also been registered in the shape of DDR No.15 (Annexure P-2) and the question of aggressor is yet to be examined by the learned trial Court.

In view of the above discussion, the present petitioner is ordered to be released on bail on his executing a bond with two solvent sureties each in a sum of Rs.1 lac to the satisfaction of the concerned trial Court/Chief Judicial Magistrate/Illaqu Magistrate/Duty Magistrate subject to the following conditions:

- (1) The petitioner shall not directly or indirectly make any inducement, threat or promise to any person, who has been cited as a witness in the instant case.
- (2) The petitioner shall remain present before the Court on the dates of hearing of the case. In case, the petitioner wants to remain absent, he shall take prior permission of the Court concerned.
- (3) The petitioner shall also surrender his passport if any, (if not already surrendered), and in case he is not holder of the same, he shall swear an affidavit to that effect and shall be presented before the concerned Chief Judicial Magistrate/Duty Magistrate/Illaqu Magistrate at the time of

grant of bail.

With the above-said discussions, the present petition stands allowed with the above-said terms.

Anything stated here-in-above shall not be construed as an expression of opinion on the merits of the case.

01.11.2022
hemlata

(N.S.SHEKHAWAT)
JUDGE

Whether speaking/reasoned	:	Yes/No
Whether reportable	:	Yes/No