

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CRM-M-37241-2020

Date of decision : 13.09.2022

Navjot Singh @ Nanny

... Petitioner

Versus

State of Haryana

... Respondent

CORAM: HON'BLE MR.JUSTICE VIKAS BAHL

Present: Mr.Sartej Singh Narula, Advocate
for the petitioner.

Mr.Dhruv Sihag, AAG, Haryana.

VIKAS BAHL, J.(ORAL)

This is a petition under Section 439 Cr.P.C. for grant of regular bail to the petitioner in FIR no.240 dated 08.07.2013 registered under Sections 365, 302, 201, 120B IPC (Sections 364/34, 302/34 IPC added later on) at Police Station Mahesh Nagar, Ambala.

Learned counsel for the petitioner has submitted that a coordinate Bench of this Court vide detailed order dated 21.12.2020 had released the petitioner on interim bail and has relied upon the order dated 21.12.2020, the relevant portion of which is reproduced hereinbelow:

“All cases listed today have been taken up for hearing by way of video conferencing because of the situation existing due to the COVID-19 pandemic.

By this petition, the petitioner seeks the concession of 'regular bail', under the provisions of Section 439 of the Cr.P.C., upon FIR no.240, dated 08.07.2013, having been registered at Police Station Mahesh Nagar, Ambala, alleging therein the commission of offences punishable under Sections 365, 302, 201, 120-B of the IPC, with Sections 364 and 302 of the IPC read with

Section 34 thereof, added later.

On 07.12.2020, the following order had been passed:-

“All cases listed today have been taken up for hearing by way of video conferencing because of the situation existing due to the COVID-19 pandemic.

Mr. Narula having addressed arguments at length to submit that petitioners' brother having been acquitted as has also the person who is alleged to have chopped off the arms of the deceased, with the allegation against the petitioner being that he had chopped off the legs of the deceased (after his death), the petitioner deserves to be admitted to bail he having been in custody for 1 ½ years.

He further submits as regards the petitioner having been declared to be a proclaimed offender, he actually never received any notice to appear before the police with him in any case never having been arrested prior to him having allegedly absconded.

He further points out that in fact the petitioner has been working with reputed companies like the HDFC Bank, the American Express Bank, M/s Bajaj Finance etc., in Delhi and Bombay, between January 2014 till the time of his arrest on June 14, 2019.

Learned State counsel however seeks time to go through the judgment acquitting the petitioners' brother and other co-accused, because his contention is that the petitioner had motive to kill the deceased, who is earlier alleged to have killed the petitioners' father.

Mr. Narula however has countered to the effect that two of the accused acquitted, were Randeep alias Rana and Rajesh alias Don, with in fact Randeep Singh also being the brother of the petitioner, i.e. the son of the deceased in this case (the son of Gurpal).

He has next submitted that other than the alleged disclosure statements of the petitioners' co-accused and his own alleged disclosure statement, all before the police, there is no evidence linking the petitioner to the crime and in fact the demarcation of the spot where the murder took place and where the body was thrown away etc., was also alleged to have been made by one of the persons who was acquitted.

Simply to enable learned State counsel to go through both, the judgments of acquittal as also of conviction, adjourned to 16.12.2020.

Learned State counsel would naturally also go into the issue of the petitioner never having been arrested and having been declared to be a proclaimed offender simply on the allegation that despite notices he never appeared, or never joined investigation, and thereafter absconded.

Both learned counsel are actually ad idem that the petitioner has been wrongly shown to be son of Harjinder Singh in the memo of parties whereas he is actually the son of Joginder Singh, with Mr.Narula submitting that the error has occurred because even in the order of the trial court dismissing the petitioners' bail application, he has been shown to be the son of Harjinder Singh.

On his oral request, a correction in the memo of parties is consequently allowed to be made, subject to all just exceptions.”

Today, Mr. Surender Singh, learned AAG, Haryana, submits that the petitioners' brother, Harminder Singh @ Harry, was acquitted by the trial court itself on the ground of lack of evidence against him and some other coaccused and as regards the present petitioner, i.e. Navjot Singh @ Nanny, the allegation against him is that he was very much a co-conspirator in the murder of the deceased Gurpal, who was an accused (but discharged) of the murder of the petitioners' father, and that in fact as per the disclosure of one of the accused who has been convicted in the present case, (Randeep @ Rana and Rajesh @ Don having been convicted), it was the petitioner who alongwith them had murdered Gurpal, with him having cut off the legs of the deceased, the allegation of cutting the neck of the deceased being against Randeep @ Rana.

He further submits that the petitioner having absconded for a long time, he does not deserve to be admitted to bail in the aforesaid circumstances.

Mr. Narula, learned counsel for the petitioner, on the other hand submits that as regards the petitioner having absconded, other than what had been contended by him in that regard in the order reproduced hereinabove, in any case he was convicted for the commission of an offence punishable under Section 174-A of

the IPC and therefore that accusation can no longer be used against him.

Other than that, he submits that as regards the merits of the case, the allegation against the petitioner being wholly based upon an alleged disclosure made by a co-accused in custody, with no recovery whatsoever having been made from the petitioner and he already having been in custody for more than 1½ years, he deserves to be admitted to bail.

Having considered the matter, of course it needs to be observed by this court with regard to the contention raised on the last date of hearing, (that the petitioner had no knowledge of any summons/warrants issued to secure his presence), with his brother being a co-accused it would be very difficult to accept that he did not know that he too was accused in the case, simply because he was working at Mumbai or Delhi etc.

Be that as it may, since he already stands convicted for that offence (and is stated to have undergone the sentence imposed), nothing further need be said by this court in that regard.

As regards the contentions on the merits of the case as made by both counsel hereinabove, simply looking at the period of custody the petitioner has undergone, as also the fact that other than the disclosure statement allegedly made by a co-accused in custody, no substantive evidence seems at this stage to have come against him, for the purpose of this petition alone, the petitioner is ordered to be admitted to interim bail to the satisfaction of the trial court, till the next date of hearing before this court, upon him of course surrendering his passport in addition to any other conditions that that court may impose upon him.

Adjourned to 26.02.2021.

It is made absolutely clear that the observation made hereinabove by this court is only in the context of a petition filed under under the provisions of Section 439 of the Cr.P.C. and shall be totally ignored by the trial court during the course of the trial, which shall, naturally, proceed in terms of the evidence led before that court.

Mr. Surender Singh has also submitted at this stage that there are two other criminal cases registered against the petitioner; one under the provisions of the Arms Act, 1959 and another FIR alleging therein the commission of an offence punishable under Section 452 of the IPC.

Having considered that, simply looking at the period of custody of the petitioner and the stage of the trial, the order passed hereinabove is not being altered, but as said, the petitioner shall be admitted at this stage only to interim bail, till the next date of hearing before this court.

A gazetted officer is directed to file a reply to the petition, giving therein also the details of other cases registered against the petitioner and the status of those cases.

December 21, 2020

**(AMOL RATTAN SINGH)
JUDGE”**

It is submitted that in the above said order, while reproducing the order dated 07.12.2020, the rectification carried out vide order dated 16.12.2020 has not been noticed. The order dated 16.12.2020 has been reproduced hereinebelow:-

“All cases listed today have been taken up for hearing by way of video conferencing because of the situation existing due to the Covid-19 pandemic.

At the outset, Mr Narula has pointed out that there is an error in the order passed by this court on December 07, 2020, in as much as it had been recorded in the first paragraph of page 2 thereof that two accused, i.e. Randeep alias Rana and Rajesh alias Don, were acquitted, with Randeep Singh being the brother of the petitioner.

He submits that as a matter of fact it was Randeep alias Rana and Rajesh alias Don who were convicted in the case, with the petitioners' brother being Harminder Singh alias Harry, who alongwith 8 others, was acquitted.

That being so, the said paragraph recorded in the said order be deleted and the following paragraph be instead substituted in its place, obviously after getting the amended order signed from this court:-

“Mr. Narula however has countered to the effect that as a matter of fact Randeep alias Rana and Rajesh alias Don were the two persons convicted in the case, with the petitioners' brother, Harminder Singh alias Harry, having been acquitted alongwith 8 others.”

As regards the merits of the case, a somewhat detailed

order having been passed on December 07, 2020, learned State counsel appearing at that stage (Mr. Rajat Gautam, DAG, Haryana) had sought time to go through the judgement by which this court had acquitted 6 co-accused of the petitioners and to then address arguments as to whether the petitioners are similarly placed as them, or are on the same footing as the two persons who stand convicted.

However, there being a change of State counsel, Mr. Surender Singh, learned AAG, further seeks the same indulgence.

Adjourned to 21.12.2020.

To be shown in the urgent motion list, with it made clear that either Mr. Rajat Gautam, DAG, Haryana, or Mr. Surender Singh, AAG, Haryana, would address arguments on behalf of the State because otherwise, though this court obviously would have no objection to any State counsel appearing, however, the same reason for an adjournment will be taken by the next State counsel.

December 16, 2020

**(AMOL RATTAN SINGH)
JUDGE"**

It is further submitted that the argument raised by the petitioner noticed in the order dated 07.12.2020 in counter to the arguments of the State, be considered as has been rectified vide order dated 16.12.2020. It is further submitted that a perusal of the above said orders would show that it has been observed by the coordinate Bench of this Court that the petitioner was sought to be implicated on the basis of the alleged disclosure statement made by the co-accused in custody and no recovery has been effected from the present petitioner and he has been in custody for more than 1½ years. It is stated that the said interim order is continuing till date and the petitioner has never misused the said concession. It is also stated that in the present case there are 11 accused persons out of which 3 accused persons have been acquitted by the trial Court and out of the remaining 8 accused persons, 6 accused persons were acquitted by this Court. It is further stated that in the

order dated 29.04.2021, a coordinate Bench of this Court had even noticed the fact that there was a case registered against the complainant Jagpreet in Ambala. Jagpreet, who is the complainant in the case, had committed murder of one of the acquitted accused namely Satwinder Singh @ Kaka and FIR no.400 dated 31.07.2019 under Sections 302, 452, 120B, 34 IPC and Sections 25, 54, 59 of the Arms Act has been registered at Police Station Ambala against him and he is on the run. Learned counsel for the petitioner has referred to the zimni order dated 24.08.2022 as per which non-bailable warrants had been issued against the said PW Jagpreet which have been received back unexecuted and fresh non-bailable warrants have been issued for 18.11.2022. It is submitted that there are 42 witnesses and out of which, 18 have been examined and 8 have been given up, thus, the trial is likely to take time and the petitioner has been regularly appearing before the trial Court.

Learned State counsel, on the other hand, has opposed the present petition for regular bail and has submitted that the brutal murder of Gurpal Singh was committed by the petitioner along with other co-accused persons. It is further submitted that the petitioner had the motive to kill the said deceased as the petitioner's father was murdered by the deceased. It is however, not disputed that after having been granted the concession of interim bail, the petitioner has not misused the said concession.

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

The petitioner has been on interim bail since 21.12.2020 and said interim bail is continuing till date and it is not the case of the prosecution that the petitioner has tried to influence any witness or has

misused the said concession. It has been noticed in the order dated 21.12.2020 that the petitioner is sought to be implicated on the basis of the disclosure statement of co-accused which was suffered in custody and there was no recovery from the petitioner and the petitioner has already been in custody for more than 1 ½ years. The fact that the brother of the petitioner was also acquitted, was also taken note of. Out of 11 accused persons, 3 accused persons were acquitted by the trial Court and out of the remaining 8 co-accused, 6 persons were acquitted by this Court and 2 accused persons have been convicted in the present case. Although the petitioner has been declared proclaimed offender but it is the case of the petitioner that he was never served with any notice and he was not aware of the said proceedings. The said aspect has been considered at the time of granting interim bail to the petitioner by the coordinate Bench of this Court vide order dated 21.12.2020. A coordinate Bench of this Court vide order dated 29.04.2021, had also noticed that the complainant in the present case is involved in another FIR. It is brought to notice of this Court that the said complainant Jagpreet had murdered one of the persons who have been acquitted in the present case, i.e. Satwinder Singh @ Kaka and on account of the same, FIR no.400 dated 31.07.2019 under Sections 302, 452, 120B, 34 IPC and Sections 25, 54, 59 of the Arms Act has been registered at Police Station Ambala in which the said Jagpreet is one of the accused. Reference has also been made to zimni order dated 24.08.2022, as per which the non-bailable warrants issued against Jagpreet have been received back unexecuted and fresh non-bailable warrants have been issued against him for 18.11.2022. It is the case of the petitioner that said Jagpreet is absconding and it is highly unlikely that he would appear before the trial Court in the near future. There

are 42 witnesses out of which 18 witnesses have been examined and 8 witnesses have been given up and thus, the trial is likely to take time and the petitioner is regularly appearing before the trial Court.

Keeping in view the above said facts and circumstances, the present petition is allowed and the interim order dated 21.12.2020 is made absolute subject to the petitioner giving an undertaking before the trial Court within a period of 3 weeks from today that he shall appear on each and every date of hearing except the date on which his presence has been specifically exempted.

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.

(VIKAS BAHL)
JUDGE

September 13, 2022

Davinder Kumar

Whether speaking / reasoned
Whether reportable

Yes/No
Yes/No