

CRM-M-43260-2022

Date of Decision : 11.10.2022

Bhola Singh

...Petitioner

versus

State of Punjab

....Respondent

Coram : Hon'ble Mr. Justice B.S. WaliaPresent : Mr. Gurvinder Singh Sidhu, Advocate for the petitioner.  
Mr. Ayush Sarna, AAG, Punjab.

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B.S. Walia, J. (Oral)

1. Prayer in the third petition under Section 439 Cr.P.C., is for grant of regular bail to the petitioner in case FIR No. 59 dated 20.06.2021, registered under Sections 307, 341, 323, 148 and 149 Indian Penal Code, 1860 and Section 25 and 27 of the Arms Act, 1959, at Police Station Sadar Rampura, District Bathinda.

2. Earlier petitions i.e. CRM-M-39141-2021 and CRM-M-42819-2021, were withdrawn on 24.09.2021 and 02.06.2022, respectively, with liberty to file a fresh petition with better particulars in accordance with law in view of change of circumstances / liberty to file fresh petition before the learned trial Court while the instant petition has been filed in view of regular bail granted having been granted to similarly situated co accused by a co ordinate bench vide order dated 17.08.2022 in CRM-M-24252-2022, in case titled as Adarshpal Singh vs State of Punjab.

3. Learned counsel contends that the petitioner has been in custody since 05.07.2021, the petitioner is not named in the FIR and has

been implicated along with co-accused, Adarshpal in the instant case

solely on the basis of supplementary statement made by one Lakhvir Singh, six days after the date of alleged occurrence and that although investigation is complete, challan has been presented and charges framed in July, 2022, yet out of '44' prosecution witnesses, not even a single prosecution witness has been examined till date and the next date before the learned trial Court is 17.10.2022, besides there is cross-case also registered against the complainant although the police have recommended cancellation of the same, that out of '24' accused' in the instant FIR, clean chit has been given to '18' co-accused and only '6' accused including the petitioner have been arrayed by the police to face trial. Learned counsel contends that the petitioner is '45' years old, married, has two minor children, wife, old parents, no other able bodied person capable of looking after his family, sole bread winner, besides, there is no other criminal case registered against the petitioner, trial is likely to take considerable period of time to conclude, therefore, no useful purpose would be served by keeping the petitioner behind bars. Learned counsel relies upon the decision of this Court dated 17.08.2022 in CRM-M-36115-2021 and 24252-2022, in case titled as Manjit Singh vs. State of Punjab and Adarshpal Singh vs. State of Punjab respectively and contends that identical role as ascribed to the petitioner was attributed to co-accused, Adarshpal Singh, who has been granted bail by a Hon'ble Co-ordinate Bench vide order dated 17.08.2022, in CRM-M-24252-2022. Learned counsel further contends that although the allegations against the petitioner are of having inflicted gunshot wound on Lakhvir Singh, yet no recovery of any weapon was effected from the petitioner nor is any recovery sought to be effected from the petitioner.

4. Learned AAG, Punjab, on instructions from SI, Harbans Singh, P.S. Sadar Rampura, admits that it is factually correct that the petitioner is in custody since 05.07.2021, is not involved in any other case, was not named in the FIR and was implicated in the instant case solely on the basis of supplementary statement made by Lakhvir Singh, that although the petitioner is attributed as having inflicted gunshot injuries on the complainant yet neither was any weapon recovered from him nor is any recovery sought to be made, besides, the injuries attributed to the petitioner are not dangerous to life, moreover, co-accused, Adarshpal Singh, who is similarly situated as the petitioner has been granted bail by this Court vide order dated 17.08.2022, in CRM-M-24252-2022.

5. Learned Counsel for the petitioner contends that in view of the petitioner having clean antecedents, position as noted above, besides it not being the case of the prosecution that the petitioner is likely to abscond or flee from justice or influence any witness, if released on bail, it is a fit case for grant of regular bail to the petitioner, more so, in view of the identically situated co-accused, Adarshpal Singh, already having been released on regular bail during the pendency of trial vide order dated 17.08.2022, in CRM-M-24252-2022.

6. I have considered the submissions made by learned counsel.

7. Admittedly, the petitioner has been in custody since 05.06.2021, does not have any other criminal case registered against him, nor was he named in the FIR and has been nominated as accused on the basis of supplementary statement made by the complainant, Lakhvir Singh, and that too after six days of the alleged occurrence, that although

the injuries attributed to the petitioner are by gunshot but as stated by the learned AAG, Punjab, the same are not dangerous to life besides co-accused, Adarshpal Singh, against whom identical allegations have been levelled as against the petitioner, has been released on regular bail during the pendency of trial vide order dated 17.08.2022, in CRM-M-24252-2022, investigation is complete, no recovery is to be effected from the petitioner, and although charges were framed in Jul, 2022, out of '44' prosecution witnesses not even a single witness has been examined.

8. Accordingly, in view of the position noted above but without commenting upon the merits of the case, the instant petition is allowed and the petitioner ordered to be released on regular bail during the pendency of the trial, subject to his furnishing bail / surety bonds to the satisfaction of the learned CJM / Trial Court / Duty Magistrate, concerned, provided he is not required in any other case. However, nothing stated above shall be construed as an expression of opinion on the merits of the case. It is however made clear that in case the petitioner threatens or intimidates the witness(s) or otherwise interferes in the conduct of trial in any manner whatsoever, it will be open to the prosecution to move an application for cancellation of bail granted to the petitioner.

**(B.S. Walia)**  
**Judge**

11.10.2022  
rajesh

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