

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

203

**CRM-M-49863 of 2021 (O&M)
Date of Decision:20.04.2022**

Harwinder Singh

..... Petitioner

Versus

State of Punjab

..... Respondent

CORAM: HON'BLE MR. JUSTICE AMOL RATTAN SINGH

Present: Mr. Gursimran Singh, Advocate,
for the petitioner.

Mr. Rana Harjasdeep Singh, DAG, Punjab

AMOL RATTAN SINGH, J. (ORAL)

Vide this petition, the petitioner seeks the concession of 'regular bail' under the provisions of Section 439 of the Cr.P.C., upon FIR no.02, dated 30.03.2019 (incorrectly mentioned as 30.09.2016), having been registered at Police Station SSOC, Mohali, alleging therein the commission of offences punishable under Sections 17, 18, 20 UAP and 25/54/59 of the Arms Act.

On 01.04.2022 the following order had been passed by this court:-

“The affidavit dated 21.03.2022 executed by the AIG Intelligence, SAS Nagar, is ordered to be taken on record.

In the said affidavit, there is stated to be a difference between the case of the petitioner and his co-accused, to the effect that the petitioner was found to be in direct contact with one Ranjit Singh who is stated to be the head of the 'Khalistan Tiger Force' and is residing in

Germany, with the petitioner having suffered a disclosure statement to that effect; and that he had taken instructions/guidance by Ranjit Singh over the phone.

However, no phone records to that effect having been annexed alongwith the affidavit, counsel for the petitioner obviously submits that a disclosure statement made in police custody, with no 'discovery of a fact' thereafter, would be inadmissible in evidence.

Adjourned to 20.04.2022.

The AIG Intelligence, SAS Nagar, is directed to file another affidavit annexing any other evidence gathered against the petitioner to establish his links with the aforesaid Ranjit Singh, other than a disclosure statement allegedly made by him in police custody.”

Today an affidavit dated 18.04.2022 has been filed in court by learned State counsel, again executed by the AIG, Intelligence, District SAS Nagar.

It is stated in that affidavit (in response to the query of this court), that upon the case again having been examined by the said officer, it was found that the petitioner has been arraigned as an accused on the basis of an alleged disclosure statement made by him and that there is no other evidence available on the case file to establish his link with the aforementioned Ranjit Singh (in the last order).

That being so, learned counsel for the petitioner submits that the present petitioners' case would be no different from that of his co-accused Sultan Singh, Lovepreet Singh, Karamjit Singh, Daler Singh @ Bunty and Gurpreet Singh @ Preet, who have already been admitted to bail by this court (co-ordinate Bench) on different dates as per the copies of the orders annexed with CRM-7805 of 2022.

The order passed in the case of accused Lovepreet Singh and

Karamjit Singh (in CRM-M Nos.25289 and 25496 of 2020, decided on 28.09.2020) reads as follows:-

“Both the present petition shall stand decided by this common order as the same are arising out of same FIR.

The prayer in both the petitions are for grant of regular bail to the petitioner(s) in case FIR No.2 dated 30.03.2019 under Sections 17, 18 and 20 of Unlawful Activities (Prevention) Act, 1967 (Amendment 2012) and Section 25 of Arms Act, registered at Police Station SSOC, SAS Nagar, Mohali.

Learned counsel for the petitioner while praying for bail submitted that as per the challan, one Harwinder Singh appears to be in conscious possession as he was told by one unknown Ranjit Singh Pakhoke on phone about the spot, where the arms were lying. The petitioner(s) in the present case happen to be just in his company when arrested. It is further stated that they have been enroled under Sections 17, 18 and 20 of Unlawful Activities (Prevention) Act, 1967. Section 17 pertains to raising funds for the unlawful activities, whereas there is no such evidence has been collected against them. Section 18 pertains to conspiracy which too is only doubtful and no concrete evidence has come forward. Similarly, Section 20 pertains to being a member of the terrorist organization. They were simply in the presence of one Harwinder Singh from whom the recovery was effected and therefore, it cannot be said that they are members of any illegal organization. Further the allegations can be proved only in trial and they are in custody since 30.03.2019.

Learned State counsel while vehemently opposing the bail submitted that they were arrested on the spot and the recovery was effected from them and therefore, the case is different from the co-accused, namely, Gurpeet Singh @ Preet and Daler Singh @ Bunty, who were released on bail.

Heard.

The petitioners are arrested only on suspicion of conspiracy and

preparation. They are in custody since 30.03.2019. The entire allegations against them is a matter of trial. Accordingly, the present petition(s) are allowed and the petitioners are ordered to be released on bail on their furnishing of bail bonds and surety bonds to the satisfaction of concerned Chief Judicial Magistrate/Duty Magistrate.”

Consequently, since the petitioner is arraigned as an accused only on the basis of a disclosure statement made by himself in police custody, even in terms of Section 43-D (5) & (6) of the Unlawful Activities (Prevention) Act, 1967, the petition is allowed and the petitioner is ordered to be released on bail, subject to his furnishing adequate bail bonds and surety bonds to the satisfaction of the trial court/Duty Magistrate concerned.

However, naturally, as regards the trial itself it would proceed on the basis of actual evidence led before the trial court.

April 20, 2022
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(AMOL RATTAN SINGH)
JUDGE

Whether speaking/reasoned	Yes
Whether Reportable	No