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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M No.51496 of 2021 (O&M)

Date of decision: 24.02.2022

Gurpinder Singh @ Ghoga

....Petitioner

Versus

State of Punjab

....Respondent

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present: Mr. S.S. Momi, Advocate
for the petitioner.

Mr. Joginder Pal Ratra, DAG, Punjab.

Mr. Naveen Bawa, Advocate
for the complainant.

ARVIND SINGH SANGWAN J. (Oral)

Prayer in this petition is for grant of regular bail to the petitioner under Section 439 of the Code of Criminal Procedure (in short 'Cr.P.C.') in FIR No.121 dated 05.08.2021, for offence punishable under Sections 307, 148, 149 IPC read with Section 25/27/54/59 of the Arms Act, registered at Police Station Rajasansi, District Amritsar (Rural).

Counsel for the petitioner, at the very outset, has relied upon the order dated 23.11.2021 passed in CRM-M No.48106 of 2021, vide which the co-accused of the petitioner namely Jaswinder Singh @ Shinder, has been granted the concession of regular bail. The operative part of the said order, reads as under:-

“Learned counsel for the petitioner submits that as per allegations in the FIR, registered at the instance of Amanpreet Singh, he is serving as Driver in school van

and on the date of incident, when he along with his brother were going to their village in a car, two cars i.e. a Swift car and a Fortuner car came from the backside and Fortuner car blocked their way. Then Gurbinder Singh @ Ghoga armed with .12 bore rifle, Parminder Singh @ Sabu armed with revolver, both sons of Tarsem Singh, alighted from the car and their third brother Jaswinder Singh @ Sinder, armed with revolver, Dilbag Singh @ Bagha armed with baseball bat along with three unidentified persons alighted from Swift car and petitioner Jaswinder Singh @ Shinder raised a lalkara that Lovpreet Singh be taught a lesson. Thereafter, Gurbinder Singh @ Ghoga fired a shot with .12 bore rifle with an intention to kill and the pellet hit on left side of chest of the complainant. Parminder Singh @ Sabu fired from his revolver on his brother Lovpreet Singh, which hit on driver side window of their car and the petitioner fired with his country-made pistol, which hit on their car.

Learned counsel further submits that the present FIR has been registered as a counter-blast to FIR No.04 dated 05.01.2021 under Sections 307, 148, 149 IPC and Section 25 of Arms Act, registered at Police Station Ajnala, District Amritsar Rural, on the statement of petitioner's brother Parminder Singh that the complainant side has caused firearm injuries. It is also submitted that record of Fortis Hospital, Amritsar reveals that the victim in the said FIR received gun shot injuries, however, the police exonerated the complainant side, on the pretext that the firearm was used in drunken condition. It is next submitted that brother of the complainant namely Lovepreet Singh @ Landa is involved in one more FIR No.293 dated 25.01.2020 registered under Section 25 of Arms Act, at Police Station Majitha, District Amritsar Rural and he is not having clear antecedents.

Learned counsel has further submitted that at the

given date and time, the petitioner along with his brother were present at their home and has relied upon the CCTV footage, which has been given to the police and is under investigation. It is also argued that co-accused of the petitioner, namely Parminder Singh, who is alleged to have fired gun shot injuries on the car of Lovepreet Singh, from his revolver, has been exonerated by the police, whereas Dilbag Singh @ Bagha, who was armed with baseball bat, has already been granted the concession of regular bail by the Additional Sessions Judge. It is next submitted that the petitioner is in custody for the last 03 months; he is not involved in any other case; investigation is complete; it is a case of no injury, therefore, it will be a matter of trial whether the present FIR has been registered on account of the fact that on an earlier occasion, the complainant side has caused injuries to brother of the petitioner.”

For the sake of brevity, the facts are not reproduced again.

Counsel for the petitioner has submitted that even the petitioner has got the FIR No.4 dated 05.01.2021 under Sections 307, 148, 149 IPC and 25 of the Arms Act, registered at Police Station Ajnala, Amritsar (Rural) against the complainant Amanpreet Singh and his brother Lovepreet Singh, on account of the fire arm injuries sustained by him.

Counsel for the petitioner has referred to his treatment record to submit that it has been noticed by the doctor that the petitioner has suffered the gun-shot injuries with right haemothorax and liver laceration with haemoperitoneum. The record further suggests that emergency surgery of laparotomy and exploration of bullet and removal of pellet was conducted on 04.01.2021.

Counsel for the petitioner has also submitted that since during the investigation of FIR No.4, the police has exonerated the complainant Amanpreet Singh and his brother Lovepreet Singh and therefore, he has filed CRM-M No.7632 of 2021, praying for fair investigation of the case and on 18.02.2021, notice has been issued and the said petition is still pending consideration.

Reply by way of affidavit of the Investigating Officer, is on record and as per the affidavit, after verifying the facts of the case, it is stated that the petitioner has caused fire arm injuries with .12 bore gun to the victim. It is also stated that as per the MLR of the complainant, two lacerated wounds were found on the left side of the chest and on both the wounds, inverted abrasion collar is present and later on, 02 pellets were removed from the wound. It is further stated that during the investigation conducted by the Superintendent of Police (Investigation), Amritsar (Rural), it was found that the petitioner has received a gun-shot injury accidentally and has falsely implicated the complainant Amanpreet Singh and his brother Lovepreet Singh.

Counsel for the State has also submitted that challan stands presented and the investigation is complete, however, the charges are yet to be framed.

Counsel for the complainant has also argued on the similar line that it is the petitioner, who has caused the fire arm injuries.

Without commenting anything on merits of the case, considering the fact that the petitioner is in custody for the last 06 months and 04 days; the co-accused of the petitioner is already released on bail; the petitioner is not involved in any other case; the custodial interrogation of the petitioner is not required and the conclusion of the

trial will take some time due to COVID-19 situation, this petition is allowed and the petitioner is directed to be released on bail subject to his furnishing bail/surety bonds to the satisfaction of the trial Court/Illaqa Magistrate/Duty Magistrate.

However, it will be open for the prosecution to apply for cancellation of bail of the petitioner, in case he is found involved in any other case or misusing the concession of bail, in any manner.

(ARVIND SINGH SANGWAN)
JUDGE

24.02.2022
yakub

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