

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CRM-M-47627-2022

Date of decision : 21.10.2022

Gurpreet Singh @ Gopi

... Petitioner

Versus

State of Punjab

... Respondent

CORAM: HON'BLE MR.JUSTICE VIKAS BAHL

Present: Mr.R.P. Dhir, Advocate
for the petitioner.

Mr.Tarun Aggarwal, Sr.DAG, Punjab.

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.150 dated 20.07.2020 registered under Sections 302, 307, 324, 325, 323, 427, 148, 149, 120-B IPC at Police Station Mahilpur, District Hoshiarpur.

Learned counsel for the petitioner has submitted that the petitioner has been in custody since 02.08.2020 and the challan has already been presented and there are 34 witnesses, none of whom have been examined and thus, the trial is likely to take time. It is further submitted that in spite of issuance ofailable warrants against complainant Seema Rani and the alleged eye witnesses, they are not appearing, thus, the trial is being delayed. It is stated that the petitioner is not involved in any other case. It is argued that a perusal of the FIR would show that the petitioner is not named in the same and complainant Seema Rani had specifically mentioned that it

was on account of enmity that co-accused Soni, Kulwinder Kaur, Mandeep Kaur, Sonu and Ravi, Kamaljit Kaur and her husband Charan Dass after hatching conspiracy, had inflicted injuries upon the two sons of the complainant and one of them, namely, Deepak Kumar had died and the other son Shiv Shant had been injured. It is further argued that out of the persons who have been specifically named in the FIR, Sonu, Kuldeep Kaur and Mandeep Kaur have been exonerated by the police and other persons have not been arrested as yet. It is further submitted that the petitioner has been implicated in the present case on the basis of statement of Shiv Shant on 30.07.2020 after a delay of 10 days of the registration of the FIR and even in the said statement, the role attributed to the present petitioner is only to the extent that he had gone to enquire about the welding of the bed from the injured Shiv Shant but had not come back and had informed the main accused about the presence of the injured and the deceased at the shop and that no injury has been attributed to the present petitioner, nor the present petitioner was present at the spot of the alleged occurrence. It is further submitted that the co-accused of the petitioner namely Teja has been granted regular bail by this Court vide order dated 21.09.2022 passed in CRM-M-42690-2022 and the case of the petitioner is on a better footing than that of said Teja Singh.

Learned State counsel, on the other hand, has opposed the present petitions for regular bail and has submitted that in the present case, one person has died. It is further submitted that as per the statement of Shiv Shant, it is the present petitioner who had given information to the main accused about the presence of injured and the deceased at the shop and thereafter the main accused had committed the said crime.

This Court has heard learned counsel for the parties and gone through the paper-book.

Petitioner is in custody since 02.08.2020 and the challan has already been presented and there are total 34 prosecution witnesses, none of whom have been examined, thus, the trial is likely to take time. The petitioner is stated to be not involved in any other case. A perusal of zimni orders dated 01.07.2022, 27.07.2022 and 18.08.2022, would show that complainant Seema Rani and injured Shiv Shant are not appearing before the Court in spite of issuance of bailable warrants against them. The said zimni orders are reproduced as under: -

"STATE OF PUNJAB VS GURPREET SINGH etc.

*Present: Addl. Public Prosecutor for State assisted by Sh. Savinder Singh Saini, Adv
Accused Gurpreet Singh @ Gopi in custody (not produced through VC Hoshiarpur) represented by Sh. RP Dhir, Adv.
Accused Sukhpreet Singh, in custody (not produced through VC Hoshiarpur) represented by Sh. JBS Gill, Adv
Accused Teja Singh & Akashdeep in custody (not produced through VC Hoshiarpur) represented by Sh. Vikram Bhalla Adv. Free legal aid counsel And Sh. Pankaj Bedi Adv.
Accused Jaskamalpreet Singh & Roshan in custody (not produced through VC Hoshiarpur) represented by Sh. Pankaj Bedi Adv.
Accused Parminder Singh in custody (not produced through VC Hoshiarpur) represented by Sh. Vikram Bhalla and NS Maan, Adv
Accused Akshay in custody (not produced through VC Patiala) represented by Sh. Pankaj Bedi Adv.*

Accused produced by the jail authorities through VC. They be again produced on 27.07.2022 through VC. Retired Inspector Sukhwinder Singh is present but not examined as prosecution wants to examine eye witnesses first. Please discharge for time being.

Summon issued to PW Seema Rani and Shivshant received back served. But they have not come present. Let bailable warrants of these witnesses be issued for 27.07.2022. Remaining pws be summoned for the date fixed.

*Date of Order: 01.07.2022
Diksha Rani-Steno*

*(Jatinder Pal Singh Khurmi)
Additional District and Sessions Judge
UID NO . PB00057"*

"STATE OF PUNJAB VS GURPREET SINGH etc.

Present: Addl. Public Prosecutor for State assisted by Sh. Savinder Singh Saini, Adv

Accused Gurpreet Singh @ Gopi in custody (not produced through VC Hoshiarpur) represented by Sh. RP Dhir, Adv

Accused Sukhpreet Singh, in custody (not produced through VC Hoshiarpur) represented by Sh. JBS Gill, Adv

Accused Teja Singh & Akashdeep in custody (not produced through VC Hoshiarpur) represented by Sh. Vikram Bhalla Adv. Free legal Aid Counsel And Sh. Pankaj Bedi Adv.

Accused Jaskamalpreet Singh & Roshan in custody (not produced through VC Hoshiarpur) represented by Sh. Pankaj Bedi Adv.

Accused Parminder Singh in custody (not produced through VC Hoshiarpur) represented by Sh. Vikram Bhalla and NS Maan, Adv Accused Akshay in custody (not produced through VC Patiala) represented by Sh. Pankaj Bedi Adv.

Accused not produced by the jail authorities through VC. Let production warrants of accused be issued for 18.08.2022. Bailable warrants of Seema Rani and Shiv Sant were executed but they have not turned up. Let they be summoned through non bailable warrants for 18.08.2022.

*Date of Order: 27.07.2022
Diksha Rani-Steno*

*(Jatinder Pal Singh Khurmi)
Additional Sessions Judge/Hoshiarpur
UID No. PB-00057 "*

"STATE OF PUNJAB VS GURPREET SINGH etc.

Present: None for the State.

Accused Gurpreet Singh @ Gopi in custody (not produced through VC Hoshiarpur) represented by Sh. RP Dhir, Adv

Accused Sukhpreet singh on bail with Sh. JBS Gill, Adv

Accused Teja Singh & Akashdeep in custody (not produced through VC Hoshiarpur) represented by Sh. Vikram Bhalla Adv. Free legal Aid Counsel And Sh. Pankaj Bedi Adv. Sh.

Pankaj Bedi Advocate for the accused Jaskamalpreet Singh

Accused Roshan in custody (not produced through VC Hoshiarpur) represented by Sh. Pankaj Bedi Adv.

Accused Parminder Singh in custody (not produced through VC Hoshiarpur) represented by Sh. Vikram Bhalla and NS Maan, Adv

Accused Akshay in custody (not produced through VC Patiala) represented by Sh. Pankaj Bedi Adv.

As per the report of Ahlmad, accused Jaskamalpreet Singh and Sukhpreet Singh have furnished bail bonds and bail order dated 03.8.2022 received and attached.

Accused not produced by the jail authorities through VC. Let production warrants of accused be issued for 13.09.2022.

An application has been filed for exemption of personal appearance of accused Jaskamalpreet Singh and the same is allowed for today in view of the averments made in the application

Non bailable warrants issued against pw Seema Rani and Shivshant received back with the report of ASI Neeraj Kumar that due to law and order duty, he could not execute the warrants. To procure the presence of witnesses, let fresh non bailable warrants issued against pw Seema Rani and Shivshant be issued for 13.09.2022.

Date of Order: 18.08.2022

*(Jatinder Pal Singh Khurmi)
JSC/Hoshiarpur
UID No. PB-00057"*

A perusal of the FIR would show that the complainant had specifically stated that it was on account of enmity that Soni, Kulwinder Kaur, Mandeep Kaur, Sonu and Ravi, Kamaljit Kaur and Charan Dass after hatching a conspiracy, had inflicted injuries upon her sons. Out of said persons, who had been specifically named in the FIR, three persons, namely, Soni, Kuldeep Kaur and Mandeep Kaur have been declared as innocent and some of the persons named therein have not been arrested as yet. The petitioner was not named in the FIR and was subsequently implicated on the basis of statement dated 30.07.2020 made by Shiv Shant injured and even as per the said statement, it had been stated that the present petitioner had informed the main accused about the presence of the injured and the deceased at the shop. The said statement has been recorded after a period of 10 days from the registration of the FIR. Further, Teja, co-accused of the present petitioner has been granted regular bail vide order dated 21.09.2022 by this Court passed in CRM-M-42690-2022 and the case of the present petitioner is on a better footing than that of Teja.

Keeping in view the above said facts and circumstances, the present petition is allowed and the petitioner is ordered to be released on

trial Court/ Duty Magistrate and subject to him not being required in any other case.

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

October 21, 2022
Davinder Kumar

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