+ IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

(231/1) **CRM-M-5127 of 2021**
DATE OF DECISION:-30.05.2023

Dinesh Kumar @ Gona ...Petitioner

vs.

State of Punjab ...Respondent

CORAM: HON'BLE MR. JUSTICE HARKESH MANUJA

Present: Mr. M. S. Saini, for the petitioner.

Mr. Amit Shukla, AAG, Punjab.

Mr. Tejinderbir Singh, Advocate, for the complainant.

***

HARKESH MANUJA, J.

(1) By way of present petition filed under Section 439 of the Code of Criminal Procedure, 1973, petitioner prays for grant of bail pending trial in case FIR No.0140 dated 27.11.2022 under Sections 307, 148, 149, 120 IPC (Sections 323 and 324 added vide order dated 01.07.2021 and Section 302 IPC also added lateron), registered at Police Station Bhogpur, District Jalandhar, Punjab.

(2) As per allegations levelled against the petitioner in the FIR, he along with other accomplices attacked the victim Manveer Singh @ Joga and inflicted multiple injuries upon the vital parts of his body by using sharp edged weapon, thereby, resulting into his death.

(3) Learned counsel for the petitioner submits that upon thorough investigation, the petitioner was initially declared innocent while preparing the final investigation report, however, was thereafter summoned under Section 319 Cr.P.C. only. Referring to the medical condition of the petitioner, learned counsel submits that post his summoning under Section

ANIL KUMAR
2023.05.31 17:51
I am approving this
document

319 Cr.P.C., he suffered fire arm injury in the month of November 2014 and since then, he is bed ridden. Learned counsel also points out that complainant is unnecessary delaying the proceedings in the trial as he has not been appearing before the Court for the past 4 hearings for no valid reasons.

(4) On the other hand, learned State counsel assisted by Mr. Tejinderbir Singh, Advocate, appearing for complainant vehemently opposes the prayer made herein while referring to the antecedents of the petitioner who is allegedly involved in 13 other cases, though, acquitted in one and having undergone sentence in another case, besides trial is still pending against him in eleven other cases. Learned counsel for the complainant also submits that non-appearance of the complainant before the trial Court on the last 4 hearings is for the reason that he was apprehending threat at the hands of petitioner.

(5) I have heard learned counsel for the parties and gone through the paper book. I am unable to find substance in the submissions made on behalf of the petitioner.

(6) In the present case, petitioner was specifically named in the FIR though, later found to be innocent by the Investigating Agency followed by his summoning under Section 319 Cr.P.C. vide order dated 22.10.2014 by the trial Court. The petitioner even did not appear before the Court in pursuance to the summoning order dated 22.10.2014 and had to be declared a proclaimed offender vide order dated 18.04.2015 and could only be arrested only after a gap of almost 5 years on 23.10.2019 and was granted interim bail on medical grounds on 27.10.2021 which he has been enjoying even as on today. A perusal of the FIR itself shows that petitioner was duly

ANIL KUMAR
2023.05.31 17:51
I am approving this
document

identified by the complainant at the time of incident and was specifically and categorically mentioned in the FIR itself.

(7) Moreover, considering the antecedents of the petitioner who has been involved in 14 other cases including the present one, out of which three include Section 302 IPC whereas two are under Section 307 IPC, though, he having been acquitted in one of the fourteen cases besides having undergone his sentence in another one, I do not see any reason to extend the concession of bail to him especially, looking into the manner in which offence has been committed wherein 10 injuries were inflicted to the person of deceased that too on vital parts of his body with sharp edged weapons i.e. *datar* and *kripan.*

(8) More than that, four co-accused namely Gopal @ Gopa, Pardeep Kumar @ Deepu, Naveen Saini and Surinder Pal @ Sup, against whom, the evidence primarily remained the same have already been convicted under Sections 302 IPC and awarded life imprisonment vide judgment dated 01.08.2018 passed by the Court of Additional District and Sessions Judge, Jalandhar.

(9) As regards, non-appearance of the complainant before the trial Court which as per the petitioner, has resulted into delay of trial, the petitioner cannot be said to be at loss as on all the 4 occasions and even till today, he has been enjoying the concession of interim bail and was not in custody therefore, non-appearance of the petitioner has not resulted in any violation of the fundamental rights as regards speedy trial. Above all, considering the antecedents of the petitioner, I find some substance in the submission made on behalf of complainant of he being under some kind of threat to his life while appearing in the Court to depose against the

ANIL KUMAR
2023.05.31 17:51
I am approving this
document

petitioner.

(10) So far as the medical condition of the petitioner is concerned, it may be pointed out here that no such evidence has been brought on record which could show that there is any kind of imminent threat or danger to his life.

(11) On the other hand, learned counsel for the complainant has even disputed the medical condition of the petitioner and refers to a video showing the petitioner to be in company of his friends in some hotel at a hill station as also noted in the order dated 02.09.2022.

(12) Considering the aforesaid, I do not find any merit in the present petition and thus, the same is dismissed.

(13) Despite there being a specific direction issued vide order dated 22.05.2023, passed by this Court, the petitioner failed to surrender before the concerned Jail Authorities, as such, the respondent-State is directed to take petitioner in custody immediately. Further, it goes without saying that the Jail authorities shall take care of the medical needs of the petitioner including requirement of attendant, if any.

30.05.2023 **(HARKESH MANUJA)**
anil **JUDGE**

whether speaking/reasoned: Yes/No
whether reportable: Yes/No

ANIL KUMAR
2023.05.31 17:51
I am approving this
document