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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-4819-2023 (O&M)

Date of decision:11.09.2023

Balraj Singh @ Boori

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE ARUN MONGA**Present:** Mr. Hitesh Chopra, Advocate,
For the petitioner.

Mr. Mohit Thakur, AAG, Punjab.

ARUN MONGA, J. (ORAL)

After being declined bail by the trial Court, petitioner before this Court seeks his release as an undertrial in a case bearing FIR No.0002 dated 02.01.2020, registered under Section 302, 120-B, 148 read with Section 149 of IPC and Section 25, 27 of Arms Act, 1959 at Police Station, Majitha, Amritsar Rural.

2. Per prosecution case, on 01.01.2020 at about 8:00 p.m., the deceased, Gurdeep Singh, brother-in-law (Jeth) of the complainant, Charanjit Kaur, had gone to Gurudwara Sahib to pay his respects. While Gurdeep Singh was waiting near Kabal Singh's house for his wife, Gurjeet Kaur (who is the sister-in-law of the complainant), three young individuals arrived on a motorcycle from the village of Buddha. Among them, one was a Sikh gentleman, and the other two were clean-shaven. All three individuals were approximately 24-25 years old. They suddenly started to fire gunshot from their pistols at Gurdeep Singh and then quickly fled on their motorcycle toward the village of Mann Khera. Upon hearing the commotion, the complainant and Gurjeet Kaur raised an alarm, prompting the arrival of Hardeep Singh, the brother-in-law (Dewar) of the complainant. Gurdeep Singh was rushed to the hospital but unfortunately succumbed to his injuries. It is alleged that Harmanpreet Singh, the son of Nirmal Singh, and Nirmal Singh himself had previously threatened to harm Hardeep Singh during an election. During the investigation, based on the statement of

Hardeep Singh, the petitioner was identified as a suspect and his name was included in the case under rapat no.30 dated February 28, 2020. In his statement on the same date, Hardeep Singh asserted that his brother, Gurdeep Singh, had been murdered as a result of a well-planned conspiracy involving Harmanjit Singh, Nirmal Singh, and three unidentified individuals. Hardeep Singh also mentioned that among these unknown individuals, there was one named Balraj Singh (the present petitioner) whom he had frequently seen in the company of Harmanjit Singh. Petitioner was later arrested on 09.03.2020.

3. Learned counsel for the petitioner argues that Petitioner was falsely nominated as suspect only on the basis that petitioner was having close relations/friendship with Harmanpreet Singh. Not only co-accused Nirmal Singh and Harmanpreet Singh have been granted bail by this Court, but even otherwise complainant and other eye witnesses, who are the star witnesses of prosecution, have been examined and they have not supported the case of prosecution. The trial is likely to result in acquittal of the petitioner, contends the learned counsel.

3.1. Learned counsel for the petitioner submits that initially FIR was registered against Harmanjit Singh @ Harmanpreet Singh and Nirmal Singh. Petitioner was named in the FIR on the basis of statement of Hardeep Singh, brother of deceased recorded on 28.02.2020.

3.2. He further submits that petitioner is not required for further custodial interrogation. There is no likelihood of petitioner tampering with evidence and/ or influencing prosecution witnesses. Further contends that out of 28 prosecution witnesses, 09 have been examined. Trial will take some time to conclude as it is proceeding at a snail pace.

3.2. He further canvasses that co-accused Harmanpreet Singh was granted the concession of regular bail by this Court vide order dated 13.07.2023 passed in CRM-M-32187-2023 and Nirmal Singh was granted concession of regular bail by a coordinate Bench of this Court vide order dated 27.09.2022 passed in CRM-M-

54146-2021. Petitioner is thus also entitled to bail, as his case is on much better footing.

4. On the other hand, learned State counsel opposes the bail petition. He submits that petitioner has committed a serious offence. Petitioner is the prime accused. He submits that .30 bore pistol has been recovered from the petitioner. In case, petitioner is granted concession of bail, there are chances of his fleeing from justice. He submits that 14 other cases are pending against him. He is a habitual offender.

5. I have heard rival contentions of learned counsels for the parties and have gone through the case file.

6. On a Court query, under instructions from ASI Sarabjeet, learned State counsel does not controvert that all the material witnesses including complainant have been examined and they have not supported the prosecution version. He informs that challan was filed way back on 07.06.2020 and charges were framed on 15.09.2021. Petitioner is not required for custodial interrogation. Out of 28 prosecution witnesses, 09 have been examined and now the case is fixed for 10.10.2023.

7. Allegations against petitioner are a matter of trial at this stage. Bail allows an accused to maintain his freedom until his guilt or innocence is determined. Whereas, petitioner has already been languishing in jail for more than 03 years, 6 months, being behind bars since 09.03.2020. He is being kept in preventive custody merely on an unfounded suspicion that if he is let out, he may either tamper with evidence and/or influence witnesses.

8. Petitioner is stated to be 27-year old family person and is only breadwinner of his family. He has already lost his livelihood due to prolonged incarceration. Petitioner is not flight risk in any manner, given that he has a family to look after and has a fixed abode.

9. Co-accused Harmanpreet Singh alias Harmanjit Singh and Nirmal Singh were granted the concession of regular bail by this Court and a co-ordinate Bench of this Court.
10. Considering the overall scenario and without commenting on the merits of the case, the instant petition is allowed. I am of the view that no useful purpose would be served to keep the petitioner in further preventive custody.
11. Accordingly, petitioner is ordered to be released on bail, if not required in any other case, on his furnishing bail bonds and surety bonds to the satisfaction of Ld. trial Court, where his case is being tried and in case he/she is not available, before learned Duty Judge, as the case may be.
12. In case, petitioner is found to be involved or gets involved in any offence while on bail, the prosecution shall be at liberty to seek cancellation of his bail in the instant case.
13. It is made clear that any observations and/or submissions noted hereinabove shall not have any effect on merits of the case as the same are for the limited purpose of hearing the instant bail petition alone and learned trial Court shall proceed without being influenced with this order.
14. Pending application(s), if any, shall also stand disposed of.

(ARUN MONGA)
JUDGE

11.09.2023
vandana

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