

**IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH.**

CRM-M-6571-2023

Date of Decision:-23.02.2023

Navi Sharma @ Ravi.

.....Petitioner.

Versus

State of Punjab.

.....Respondents.

CORAM:- HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present:- Mr. A.D.S. Sukhija, Advocate for the Petitioner.

Mr. Shubham Kaushik, Assistant Advocate General, Punjab.

Mr. Preetinder Singh Ahluwalia, Advocate for the
Complainant.

JASJIT SINGH BEDI, J. (ORAL)

The Prayer in this petition under Section 439 Cr.PC is for the grant of regular bail in case FIR No.38 dated 06.04.2022 under Sections 302, 34 IPC and Sections 25 & 27 of Arms Act, 1959 (Sections 148, 149 IPC added later on and Section 34 IPC deleted subsequently) registered at Police Station Urban Estate, District Patiala.

2. The brief facts of the case are that statement of one Jugandeep Singh was recorded to the effect that he had graduated from Khalsa College, Patiala in 2018. One Harvir Singh was the president of Student Organization in Punjabi University, Patiala. Prior to the occurrence a quarrel had taken place between him(complainant) and Harvir Singh. On 5.4.2022 while he (complainant) was standing in front of Butter Stup Pizza

Hut restaurant then Harvir Singh along with Tejinder Singh Fauji came there and started abusing him. Thereafter Harvir Singh left the place on his motor cycle and came back on motor cycle accompanied by two persons namely Bonny and Harman. On seeing them he (complainant) stayed in his car parked nearby. Thereafter Harvir, Tejinder Singh, Bonny and Harman surrounded his car. Harvir was holding a pistol in his hands and started threatening him. On seeing the altercation his (complainant's) friend Gurjinder Singh the owner of the restaurant called Dharminder Singh @ Bhinda his (complainant's) friend, who tried to convince Harvir Singh and his companions. After sometime, Tejinder Singh Fauji raised a *lalkara* that they be not spared. Thereafter Tejinder Singh Fauji, Harvir Singh, Bonny and Harman started firing shots with their pistols and they (complainant party) started running to save themselves. Then Harvir Singh fired a shot towards Dharaminder Singh which struck his back and he fell into an empty plot. On his (complainant's) screaming many people came out of the PG accommodations situated near the spot after which the accused ran away. Dharminder Singh died due to a gunshot injury.

Based on the aforementioned allegations the present FIR came to be registered. Thereafter a Video clip of the recording was examined and it was found that Bahadur Singh, Pritpal Singh, Varinder Singh and the present petitioner-Navi Sharma @ Ravi were present at the spot along with muffled faces. A supplementary statement of the complainant was recorded naming the above 4 persons as accused. Therefore, these 04 persons were nominated as accused as well.

3. The Counsel for the petitioner contends that petitioner is not named in the FIR but in the supplementary statement of the complainant.

Even as per the CCTV footage/video clip of the alleged scene of occurrence the petitioner cannot be identified properly. The statement of the owner of Butter Stup Pizza Hut restaurant namely Gurjinder Singh was recorded under Section 161 Cr.PC wherein the name of the petitioner does not figure. The deceased had received only one gunshot injury attributed to Harvir. As the petitioner was in custody since 09.04.2022 and none of the 23 witnesses had been examined so far, he was entitled to the grant of bail.

4. The learned Counsel for the State on the other hand contends that though the petitioner is not named in the FIR, he is named in the supplementary statement of the complainant. As per the CCTV footage/video clip a number of people including the accused can be seen at the place of occurrence. Some of them are clearly identifiable while some are not. He however, concedes that Gurjinder Singh has not named the petitioner in his statement under Section 161 Cr.PC. He however contends that a 32 bore pistol was recovered from the petitioner along with splendor motor cycle. There were two other cases registered against him bearing case FIR No.57 dated 26.5.2020 under Sections 323, 324,341, 506, 148, 149 IPC P.S. Pasiona, District Patiala and FIR No.18 dated 20.02.2022 under Sections 307, 324, 323341, 506, 148, 149 IPC P.S. Urban Estate, Patiala. Therefore, the manner in which the occurrence took place along with his criminal antecedents did not entitle him to the grant of bail.

5. The Counsel for the complainant has vehemently opposed the bail application and contends that the occurrence must be seen in totality. Four persons are clearly named in the FIR after which 04 more persons including the petitioner were named in the supplementary statement. The said supplementary statement is substantiated by the CCTV footage/video

clip showing the accused actively participating in the occurrence. Therefore, the petitioner was not entitled to the grant of bail.

6. I have heard the counsel for the parties.

7. The veracity of the prosecution case against the petitioner shall be established during the trial. There is a dispute regarding the identification of the petitioner from the CCTV footage/video clip on which the supplementary statement of the complainant is based. The petitioner is in custody since 09.04.2022 and none of the 23 prosecution witnesses have been examined so far. Therefore, the further incarceration of the petitioner is not required looking at the attending facts and circumstances.

8. Thus without commenting on the merits of the case, the present petition is allowed and the petitioner-Navi Sharma @ Ravi son of Sh. Hardeep Sharma is ordered to be released on bail subject to his furnishing bail bonds and surety bonds to the satisfaction of learned CJM/Duty Magistrate, concerned.

8. The petitioner shall appear before the police station concerned on the first Monday of every month till the conclusion of the trial and inform in writing each time that he is not involved in any other crime other than the present one.

9. In addition, the petitioner (or anyone on his behalf) shall prepare an FDR in the sum of Rs.1,00,000/- and deposit the same with the Trial Court. The same would be liable to be forfeited as per law in case of the absence of the petitioner from trial without sufficient cause.

10. The observations made in this order are only for the purposes of deciding this bail application and the Trial Court is free to adjudicate upon the case based upon the evidence lead before it uninfluenced by any

observations made herein

11. The petition stands disposed of.

(JASJIT SINGH BEDI)
JUDGE

February 23, 2023

Vinay

<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether reportable</i>	<i>Yes/No</i>