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IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CRM-20037-2023 in/and
CRM-M-7748-2023
Date of Decision: 31.07.2023

Suraj @ Gangua

..... Petitioner

Versus

State of Punjab

..... Respondent

CORAM: HON'BLE MR. JUSTICE HARSH BUNGER

Present: Mr. Vaibhav Narang, Advocate
for the applicant/petitioner.

Mr. Harjinder Singh Sidhu, AAG, Punjab.

HARSH BUNGER J.

CRM-20037-2023:

Present application is filed for placing on record the orders passed by the Court of Additional Sessions Judge, Amritsar as Annexures A-1 to A-3.

For the reasons mentioned in the application, the orders passed by the Court of Additional Sessions Judge, Amritsar (Annexures A-1 to A-3) are taken on record, subject to all just exceptions.

Application is accordingly disposed of.

CRM-M-7748-2023:

1. Petitioner (Suraj @ Gangua) has filed the present petition under Section 439 of the Code of Criminal Procedure seeking grant of regular bail in case bearing FIR No.82 dated 30.03.2013, under Sections 148, 149, 307, 382 and 506 of the Indian Penal Code, registered at Police Station Civil Lines, District Amritsar City.
2. Upon issuance of notice, status report by way of affidavit dated 27.02.2023 of Mr. Varinder Singh Khosa, P.P.S., Assistant Commissioner of Police, North, Amritsar City has been filed on behalf of the State of Punjab, which is already on record.
3. Custody certificate dated 09.05.2023 of the petitioner has been filed on behalf of the State of Punjab, which is taken on record, subject to all just exceptions.
4. Briefly, the aforesaid case FIR was registered on the complaint of Jarmanjit Singh s/o S.Jasbir Singh, who had stated that on 27.03.2013, there was a holiday on account of Holi Festival and he along with his friend Harmesh Singh s/o Lakha Singh were going on a motorcycle bearing registration No.PB-02-BV-1716 (Hero Honda) to the Liberty Market, Railway Link Road, Amritsar for purchasing mobile phone. It is stated that when they reached the market at about 4:30 P.M., 10-11 clean shaven young persons were standing on the road and the complainant and his friend blew the horn for getting the aforesaid persons aside, however, the said persons started hurling abuses to them, whereupon the complainant asked them to stop. It is further stated that the aforesaid persons were armed with *kirpans* and sticks and they were calling each other by their names, out of which, the complainant is stated to have remembered the names of Bobby, Sunny,

Gangua and Ginni. It is alleged that the accused persons said that 'let us teach them a lesson for honking' and they started fighting with the complainant and his friend. It is further alleged that Sunny gave a *kirpan* blow on the right ear of the complainant with an intention to kill him; Gangua (petitioner) gave a *kirch* blow on the right side of the head, near the ear, of complainant with an intention to kill him and Ginni and Bobby gave stick blows held in their hands to the complainant, which hit on his shoulder and waist. It is also alleged that apart from the aforementioned persons, some other unidentified persons were also present at the spot, whom the complainant can identify, if brought before him. As per the complainant, the said accused persons threw him on the ground and gave fist blows and also snatched the mobile (make Samsung E-2222), an amount of Rs.13,000/-, a gold chain (1½ Tola) and a gold bracelet (1½ Tola), which the complainant was wearing in his hand. It is alleged that when Harmesh Singh (friend of the complainant) raised alarm then the accused persons along with their weapons and the snatched articles fled away from the spot. Thereafter, Harmesh Singh got the complainant admitted in the Civil Hospital.

5. Learned counsel for the petitioner submits that the petitioner is innocent and he has been falsely implicated in the aforesaid case FIR No.82 dated 30.03.2013. It is submitted that the petitioner was not aware of the proceedings pending against him as he was never served with any notice nor he has been declared as a proclaimed offender. It is stated that the petitioner had been residing in his house and never ran away. Learned counsel states that the petitioner was arrested on 05.04.2022 and since then he is in judicial custody. Learned counsel for the petitioner contends that the complainant in this case has already left India and is now living abroad. It is

further contended that challan against the co-accused in this case has been presented and the complainant and another eye-witness (Harmesh Singh) have also been examined, however, both of them have not supported the prosecution case. It is stated that affidavit dated 20.08.2022 (Annexure P-4) has been submitted by the father of complainant stating that compromise has been effected in this case; his son Jarmanjit Singh (complainant) has gone abroad and they do not want any legal action against Suraj @ Gangua (petitioner). Learned counsel for the petitioner contends that there is also a delay of three days in registration of the instant FIR as the occurrence is alleged to have taken place on 27.03.2013 whereas the FIR was registered on 30.03.2013. It is submitted that nothing is to be recovered from the petitioner.

6. Learned counsel for the petitioner submits that co-accused, namely Raj Kumar @ Raju @ Bobby, Sunny and Vikas @ Munna have already been granted regular bail (Annexures A-1 to A-3) in the instant FIR by the Court of Additional Sessions Judge, Amritsar, way back in the year 2015. It is stated that the petitioner has not committed any offence as alleged in the instant case and he is not involved in any other case. Learned counsel for the petitioner submits that supplementary challan against the petitioner stands presented on 03.05.2022, charges have been framed on 27.10.2022 and out of the total twenty prosecution witnesses, only two witnesses have been examined by now, hence trial in the case is likely to take some time to conclude and no useful purpose would be served with further incarceration of the petitioner. Learned counsel for the petitioner submits that the petitioner is ready to abide by all the conditions as may be

regular bail is made.

7. Per contra, learned State counsel opposes the plea of petitioner for grant of regular bail on the ground of seriousness and gravity of the offence. It is submitted that a specific role/injury has been attributed to the petitioner in the instant case as he is alleged to have attacked the complainant-Jarmanjit Singh with an intention to kill him by a *kirch* blow, which hit on the right side of his head, near the ear. Learned State counsel further submits that the petitioner does not deserve the concession of regular bail as he has remain absconded for a long period of nine years and was arrested with a great hardship. It is submitted by learned State counsel that the petitioner has committed a crime of serious nature and in case he is released on bail, he might influence the witnesses and also abscond and delay the trial. Accordingly, prayer for dismissal of the instant petition has been made. However while referring to the custody certificate, it is not disputed by learned State counsel that the petitioner is in custody for a period of one year, one month and three days (as on 09.05.2023) and no other case is pending against the petitioner. It is conceded by learned State counsel that supplementary challan against the petitioner has been presented, charges have been framed and out of the total twenty prosecution witnesses, only two witnesses have been examined by now. Learned State counsel fairly concedes that co-accused, namely Raj Kumar @ Raju @ Bobby, Sunny and Vikas @ Munna have already been granted regular bail in the instant FIR by the Court of Additional Sessions Judge, Amritsar.

8. I have heard learned counsel for the parties and perused the paper book as well as the status report and custody certificate of the

petitioner.

9. In this case, the petitioner is in custody for a period of one year, one month and three days (as on 09.05.2023) and admittedly there is no other case pending against the petitioner; supplementary challan against him stands presented on 03.05.2022, charges have been framed on 27.10.2022 and out of the total twenty prosecution witnesses, only two witnesses have been examined, as of now, thus trial in the case is likely to take some time to conclude. Further in the status report, it is mentioned that as per the Medico Legal Report of the complainant Jarmanjit Singh, he received three injuries, out of which, Injury No.1 caused on right ear was kept under observation, subject to surgery and E.N.T. Opinion, however, the same was later on declared simple in nature; Injury No.2 caused on the right scapular region and Injury No.3 caused on the right knee were stated to be caused with blunt weapons and were declared simple in nature.

10. As regards the contention of learned State counsel that the petitioner had absconded and was arrested after a long period of nine years is concerned, suffice it to say that till the date of his arrest, petitioner was not declared as a proclaimed offender. Learned counsel for the petitioner has also placed on record the orders passed by the Court of Additional Sessions Judge, Amritsar (Annexures A-1 to A-3) granting concession of regular bail to the co-accused in the instant FIR, way back in the year 2015.

11. So far as the apprehension expressed by learned State counsel that the witnesses could be influenced by the petitioner, suffice it to state that in the event of any such conduct, the prosecution can always approach the competent Court for cancellation of bail. Accordingly, it is observed that the State/Prosecuting Agency/State police shall be at liberty to observe the

behaviour of the petitioner during the bail period, and in case it feels that

the petitioner is indulging in influencing any of the witnesses or tampering with the prosecution evidence in any manner or otherwise causing interference with the progress of trial, it shall be open for the State/Prosecuting Agency/State police to move to the trial Court for cancellation of the bail, which shall be decided by the trial Court on merits.

12. Keeping in view the aforementioned circumstances, the present petition is allowed and the petitioner is ordered to be released on regular bail, subject to his furnishing bail/surety bonds to the satisfaction of the trial Court/Illaq Magistrate/Duty Magistrate concerned. However, the concerned Station House Officer shall be informed about the release of petitioner and the petitioner shall inform the concerned Station House Officer about his address at which he intends to reside during the pendency of case/trial and any change in the address shall be communicated to the concerned Station House Officer, forthwith. The petitioner would also furnish his telephone number to the concerned Station House Officer. He would also furnish his undertaking to the effect that he will not indulge in any illegal activity. The petitioner shall also appear before the concerned Police Station/Station House Officer on first Monday of every month till the conclusion of trial.

13. In addition, the petitioner (or anyone on his behalf) shall prepare a Fixed Deposit Receipt (F.D.R.) in the sum of Rs.1,00,000/- and submit the same with the trial Court. The same would be liable to be forfeited as per law, in case the petitioner remains absent from trial without any sufficient cause.

14. Nothing expressed hereinabove shall be construed to be an

above are only for consideration of the prayer for bail at this stage.

- 15. The petition is accordingly disposed of.
- 16. All pending application(s), if any, shall also stand closed.

31.07.2023 (HARSH BUNGER)
Apurva JUDGE

- 1. Whether speaking/reasoned : Yes/No
- 2. Whether reportable : Yes/No