

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

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CRM-M-12795-2023 (O&M)
Date of decision: 21.08.2023

Sukhwinder Singh @ Dugga

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE HARNARESH SINGH GILL

Present: Mr. B.S. Bhalla, Advocate for the petitioner.

Mr. Hakam Singh, AAG Punjab.

Mr. Bachanpreet Singh, Advocate for
Mr. B.S. Shergill, Advocate for the complainant.

HARNARESH SINGH GILL, J. (ORAL)

1. Through this second petition (the first one having been dismissed on 23.11.2022), the petitioner seeks regular bail in case bearing FIR No.84 dated 13.07.2019, registered at Police Station Sadar Sri Muktsar Sahib, under Sections 302, 307, 120-B, 148 and 149 IPC and Section 3(2) (v) of Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 and Sections 25 and 27 of the Arms Act, 1959.
2. Learned counsel for the petitioner contends that as per the contents of the FIR, only one specific injury on the person of Kirandeep Singh (since deceased) has been attributed to the petitioner and the remaining injuries on the person of Minni Rani (deceased), Harjeet Singh @ Gurjeet Singh and Dharminder Singh (both injured), were inflicted by the petitioner in

connivance with the other co-accused. He further submits that there is no sketch map or site plan attached with the challan; that as per the recovery memo, .30 bore rifle was recovered from the petitioner, whereas in the FIR, it is alleged that the petitioner had used .315 bore pistol; that the alleged weapon recovered from the petitioner was not found to have been used for committing the murder and that the petitioner is having an old aged mother, his wife and minor child to look after and thus, he may be granted concession of regular bail; that qua the allegation of him having issued threats to the complainant, his wife and kids, an enquiry was conducted and the statements of the Court officials were also recorded, wherein they stated that no such occurrence took place and that out of 57 prosecution witnesses, only 16 have been examined so far; that after 20.07.2022 no prosecution witness has been examined so far and that the petitioner has been in custody for the last 04 years, 01 month and 02 days.

3. In support of his case, learned counsel for the petitioner relies upon the order dated 25.01.2023 passed by the Hon'ble Supreme Court, in SLP(Crl.) No.7857/2022 titled as 'Ashish Mishra @ Monu Vs. State of U.P.'.

4. Learned State counsel and learned counsel for the complainant, while vehemently opposing the prayer for bail, submit that it is a double murder case and there are specific, serious and grave allegations against the petitioner and in a video recording, he can clearly be seen holding a gun and firing and that four specific injuries on the person of Kirandeep Singh, Minni Rani (both injured), Harjeet Singh @ Gurjeet Singh and Dharminder Singh, have been attributed to the petitioner, out of which two were fatal resulting into the death of Kirandeep Singh and Minni Rani. In support of their

assertions, they rely upon the judgment dated 12.03.2004 rendered by Hon'ble Supreme Court in Appeal (Crl.) 324 of 2004 titled as 'Kalyan Chandra Sarkar Vs. Rajesh Ranjan @ Pappu Yadav and Anr.' wherein it has been held that the mere fact that the accused has undergone certain period of incarceration (three years in the said case) by itself would not entitle the accused to being enlarged on bail, nor the fact that the trial is not likely to be concluded in the near future either by itself or coupled with the period of incarceration would be sufficient for enlarging the appellant on bail when the gravity of the offence alleged is severe and there are allegations of tampering with the witnesses by the accused during the period he was on bail. However, learned State counsel does not dispute the custody period of the petitioner and that there is no other pending or registered case against the petitioner. He submits that out of 57 prosecution witnesses, only 16 have been examined and some material witnesses are yet to be examined.

I have heard the learned counsel for the parties.

Though the earlier petition of the petitioner was dismissed on 23.11.2022, yet the fact remains that the petitioner has been in custody for the last more than 04 years and the material witnesses i.e. complainant-Mangal Singh and his wife Parminder Kaur, three Doctors and Dharminder Singh have already been examined. Remaining 41 prosecution witnesses are yet to be examined. Therefore, the conclusion of the trial would take a long time. Moreover, there is no other registered or pending case against the petitioner. Hence, no useful purpose would be served by keeping the petitioner behind the bars.

In view of the above, without commenting anything on the merits, lest it should prejudice the case of either side, the petition is allowed and the petitioner is ordered to be released on regular bail on his furnishing bail and surety bonds to the satisfaction of the learned trial Court/Duty Magistrate.

(HARNARESH SINGH GILL)
JUDGE

21.08.2023
Mangal Singh

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