

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

CRM-M-13047-2023

Date of Decision:-13.04.2023

Varinder Singh @ Bawa.

.....Petitioner.

Vs.

State of Punjab.

.....Respondents.

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

Present:- Mr. ADS Sukhija, Advocate for the Petitioner.

Mr. Kirat Singh Sidhu, Deputy Advocate General, Punjab.

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 (petitioner) and Navi Sharma @ Ravi (since granted bail vide order dated 23.02.2023 in CRM-M-6571-2023) 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 only one out of 33 witnesses had been examined so far, he was entitled to the grant of bail, more so when a similarly situated co-accused Navi Sharma had been granted similar relief.

4. The learned Counsel for the State on the other hand while opposing the grant of bail 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. Additionally, one 32 bore pistol with cartridges stands recovered from the petitioner.

5. I have heard the counsel for the parties.

6. 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 only one out of the 33 prosecution witnesses have been examined so far. Navi Sharma co-accused has been granted the concession of bail vide order Annexure P-2. Therefore, the further incarceration of the petitioner is not required looking at the attending facts and circumstances.

7. Thus without commenting on the merits of the case, the present petition is allowed and the petitioner-**Varinder Singh @ Bawa** son of Sh. Tarsem Singh 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

April 13, 2023
Vinay

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