

270

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-18821-2021 (O&M)

Date of decision:13.09.2023

Ravi Singh

....Petitioner

Versus

State of Punjab

....Respondent

CORAM: HON'BLE MR. JUSTICE ARUN MONGA

Present: Mr. Naveen Sharma, 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.124 dated 06.07.2020, registered under Section 302, 452, 307, 324, 323, 427, 120-B, and Sections 25, 27 of Arms Act, 1959 at Police Station, Nathana, District Bathinda.

2. Initially, an FIR was registered on July 6, 2020, against six named individuals: Amritpal Singh, Hardeep Singh (also known as Deepa), Tari Singh, Harjinder Singh (also known as Jindu), Balwinder Singh (also known as Pajama), and Satpal Singh (also known as Sattu), along with some unidentified individuals. The complaint was lodged by Kulwinder Singh (alias Lalli). He alleged that the accused had conspired to trespass into his house. They killed his cousin, Sukhraj Singh, and injured both Kulwinder Singh and his associates while also attempting to kill them. Kulwinder Singh informed the police that he was at home with his family when Amritpal Singh and Hardeep Singh arrived there on a motorcycle. Tari Singh, armed with a hockey stick, was accompanied by Jindu, Pajama, Satpal Singh, and around 10 or 11 unidentified individuals who were armed with swords, hockey sticks, and baseball bats. They vandalized their house. Pajama fired a shot from his pistol at Mehakdeep Singh, and Amritpal also fired shots at him, causing injuries. Hockey sticks were used to inflict head and left arm injuries. Tari struck his wife, Veerpal Kaur, in the face with a sword. As

fled the scene after making threats. Sukhraj Singh later succumbed to his injuries in the hospital.

2.1. During the investigation, on July 14, 2020, Kuldeep Singh was identified as a suspect based on a statement by Thana Singh in DDR No.30. On July 16, 2020 three more individuals—Yadwinder Singh (alias Jimpy), Sukhdev Singh (alias Sona), and Ravi Singh—were added to the FIR based on a statement by Gurmail Singh (PW) in DDR No.28 under Section 161 Cr.P.C.

2.2. In his statement dated July 16, 2020, Gurmail Singh reported that on July 5, 2020, around 4:00 p.m., he was cycling towards Lahera Bega. While taking rest near the drain bridge, he observed the accused individuals, armed with weapons, on motorcycles and cars, along with 5-6 unidentified persons with covered faces in each vehicle. Gurmail Singh was already familiar with the other accused individuals. He later learnt about the incident in which Sukhraj Singh was killed and other individuals on the complainant's side were injured.

2.3. During the investigation, co-accused Yadwinder Singh (alias Jimpy), Sukhdev Singh (alias Sona), and Surya Pal (alias Satpal) were found to be innocent. However, incriminating evidence emerged against the remaining seven accused, including the petitioner. The petitioner was thus subsequently arrested on August 17, 2020.

3. Learned counsel for the petitioner argues that petitioner was named in the present case belatedly merely on the basis of statement of Gurmail Singh. Neither petitioner was present at the scene of occurrence nor injury has been attributed to the petitioner. Petitioner was thus not even named in the FIR, and rightly so.

3.1. Learned counsel for petitioner further urges that material witnesses of prosecution, namely, injured Mehakdeep Singh and another injured Veerpal Kaur, who appeared in the witness box as PW-1 and PW-2 respectively, have turned hostile. They did not support the prosecution version and denied the presence of the petitioner at the time of occurrence. Petitioner has thus been falsely implicated in the present

case

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 56 prosecution witnesses, none has been examined. Trial will take some time to conclude as it is proceeding at a snail pace.

3.3. Co-accused have been granted concession of regular bail by coordinate Bench of this Court vide orders dated 17.05.2023, 08.04.2022, 10.08.2022 and 28.04.2022.

4. On the other hand, learned State counsel opposes the bail petition. He submits that petitioner has committed a serious offence. He submits that one Gandhali has been recovered from the petitioner. In case, petitioner is granted concession of bail, there are chances of his fleeing from justice. Further submits that he is a habitual offender. Apart from the present case, four other cases including a case under Section 392 read with Section 34 IPC and Section 25 of Arms Act are also pending against him.

5. On a Court query, learned State counsel submits that there is no direct overt or covert role attributed to the petitioner other than the statement of PW Gurmail Singh who named the petitioner, stating that he had seen petitioner in the company of other accused at a remote place prior to the incident and therefore the presumption of his involvement, is concededly not an eyewitness. Even otherwise, petitioner was not named at the very first instance as per the narrative given by the complainant. Learned State counsel further does not controvert that material witnesses, namely, injured Mehakdeep Singh and Veerpal Kaur, have not supported the prosecution version.

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

7. On a further Court query, under instructions from ASI Chamkaur Singh, learned State counsel informs that after filing of challan, charges were framed way back on 11.12.2020. Out of 56 prosecution witnesses, none has been examined so far.

8. 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, being behind bars since 17.08.2020. 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.

9. Petitioner is stated to be 26-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.

10. Co-accused of petitioner have already been granted the concession of bail by co-ordinate Bench of this Court.

11. 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.

12. 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.

13. 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.

14. 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.

15. Pending application(s), if any, shall also stand disposed of.

(ARUN MONGA)
JUDGE

13.09.2023
vandana

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