

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-20602-2023 (O/M)

Date of decision : 04.10.2023

Jagsir Singh alias Shera

..... Petitioner

Versus

State of Haryana

..... Respondent

CORAM: HON'BLE MR. JUSTICE HARSH BUNGER

Present:- Mr. Aditya Sanghi, Advocate
for the petitioner.

Mr. R.K.S. Brar, Additional A.G. Haryana.

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HARSH BUNGER, J.

1. Petitioner (Jagsir Singh alias Shera) has filed this second petition under Section 439 of the Code of Criminal Procedure seeking grant of regular bail in case FIR No. 184 dated 21.04.2022, registered under Sections 307, 323, 34, 427, 452, 506, 201 IPC and under Section 25 of Arms Act, 1959, at Police Station Sirsa Sadar, District Sirsa, Haryana.

2. The first petition filed under Section 439 of the Code of Criminal Procedure (CRM-M-17296-2023) by petitioner was withdrawn vide order dated 19.04.2023.

3. Status report by way of affidavit dated 16.05.2023 of Ms. Deepti Garg, IPS, Assistant Superintendent of Police, Sirsa, has been filed on behalf of State of Haryana, which is already on record.

4. Custody certificate dated 03.10.2023 of the petitioner has been filed by learned State counsel in Court today itself which is taken on record subject to all just exceptions.

5. Briefly, the aforesaid case FIR has been registered on the basis of complaint of Alam Singh son of Tirlok Singh, who stated that on 21.04.2022, at about 11.00 am, he and his grandson were at home, whereas his son Bawa Singh and his wife Paramjit had gone to their work when Shira (petitioner herein) son of Karnail Singh alongwith 2-3 more young boys entered their house in a white car and ransacked the house and slapped and punched the complainant and also fired shots in the air and thereafter fired shots in the air in the street and vandalized their Santro car in the street by breaking the glasses of the car. It is alleged that the assailants fired direct shot upon them (complainant party) with an intention to kill and the complainant momentarily bowed down and shot passed over him. It is stated that upon hearing the noise, their neighbours came to spot and they were also threatened by the assailants. It is further alleged that while fleeing, they threatened to kill the complainant. Accordingly, the aforesaid case FIR was registered.

6. As per status report filed on behalf of State, during the course of investigation, on 20.08.2022, Jagsir Singh alias Shira (petitioner herein) alongwith co-accused namely, Bhupender Singh alias Pinda son of Harbhajan Singh were arrested in this case. On 21.08.2022, Jagsir Singh alias Shira (petitioner herein) and co-accused Bhupender Singh alias Pinda suffered their disclosure statements admitting their guilt and explaining the

manner in which they committed the crime alongwith other co-accused Major Singh son of Surender Singh. Bhupender Singh alias Pinda is stated to have got recovered one iron rod, whereas on 22.08.2022, Jagsir Singh alias Shera (petitioner herein) is stated to have suffered disclosure statement and got demarcated the place of occurrence and further got recovered one car No. HR-80-2858 and one 12 bore pistol and 2 cartridges. The petitioner is further stated to have disclosed that he had thrown the fire pin in water by cutting the same, whereupon Section 201 IPC was added in this case.

7. Learned counsel for the petitioner submits that the petitioner is innocent and he has been falsely implicated in this case. It is contended that no motive of the alleged occurrence has been mentioned in the FIR and neither the petitioner had any motive at all to murder the complainant. It is submitted that a false story has been made only to falsely implicate the petitioner. It is next submitted that no injury at all has been caused to any of the persons of the complainant party and even as per FIR, the allegation is that the petitioner had fired the shots in the air in the street and one shot was allegedly fired towards the complainant, however, the complainant bowed down and the shot passed over him. It is thus contended that no offence under Section 307 IPC has been made out against the petitioner.

As regards the allegation that the petitioner had entered the house of the complainant and punched him, it is submitted that there is no MLR in that regard showing any injury on the complainant party. It is submitted that even otherwise the investigation in this case is complete and challan already stands submitted on 18.10.2022 and the trial Court has framed charges under Sections 307, 323, 427, 452, 506, 201, 34 IPC and

under Section 25 of the Arms Act on dated 31.03.2023. It is submitted that there are total 11 prosecution witnesses cited in this case, however, none of them have been examined, thus, the trial in the case is likely to take long time to conclude and no useful purpose would be served with further incarceration of the petitioner. It is further submitted that the co-accused of the petitioner, namely, Bhupender Singh alias Pinda has already been granted regular bail by the trial Court. It is stated that there is no other case against the petitioner.

Learned counsel for the petitioner submits that the petitioner is ready to abide by all the conditions as may be imposed by this Court or by the trial Court. Learned counsel also submits that the petitioner is also willing to furnish security in the form of Fixed Deposit Receipt (F.D.R.) before the concerned Court, so as to ensure his presence before the Court on each and every date of hearing. Accordingly, prayer for grant of regular bail is made.

8. On the other hand, learned State counsel has opposed the prayer for grant of regular on the ground of seriousness and gravity of offence. It is submitted that during the course of investigation, the petitioner had admitted his guilt and has further got recovered one 12 bore pistol alongwith 2 cartridges and the car. It is stated that one of the accused, namely, Major Singh is yet to be arrested and in case the petitioner is released on bail then he may influence the witnesses or may even abscond which would delay the trial.

However, learned State counsel has not disputed the fact that the petitioner was arrested on 20.08.2022 and since then he is in custody. It is also not disputed that the investigation in the case is complete and challan stands presented and even the charges have been framed and the trial is going on and out of 11 prosecution witness cited, no-one has been examined so far. It is further not disputed that the co-accused of the petitioner, namely, Bhupender Singh alias Pinda has been granted regular bail by the trial Court and also that there is no other case against the petitioner.

9. I have heard learned counsel for the parties and perused the paper book as well as the status report with their able assistance.

10. In the instant case, concededly no fire shot injury has been caused to the complainant or any other person of the complainant party. The petitioner has been in custody since 20.08.2022 and as on the 03.10.2023, his total custody comes to 1 year, 1 month and 11 days. The investigation in this case is complete, challan stands submitted and the charges have been framed. There are total 11 prosecution witnesses cited and none of them has been examined till date and there is no other case against the petitioner.

A perusal of the paper book shows that when the matter was listed before this Court on 13.07.2023, learned State counsel had submitted that 3 witnesses including the complainant have been summoned for 12.09.2023 and accordingly, he sought adjournment on the ground that in all probability, the complainant would be examined on the next date of hearing. Accordingly, the matter was adjourned. However, it is informed today that none of the prosecution witness has been examined, as stated by learned State counsel on 13.07.2023. Thus, the trial is likely to take some

time to conclude. Further, co-accused Bhupender Singh alias Pinda has already been granted regular bail by the trial Court.

11. So far as the apprehension expressed by learned State counsel that the witnesses could be influenced by 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 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 the trial Court for cancellation of bail, which shall be decided by the trial Court on merits.

12. Keeping in view the aforementioned circumstances, 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 observation on merits of the case and the facts and circumstances recorded 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.

(HARSH BUNGER)
JUDGE

04.10.2023.
sjks

Whether speaking/reasoned : Yes / No

Whether reportable : Yes / No