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IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CRM-M-23060-2022(O&M)
Date of decision:- 03.11.2023

Gurwinder Singh @ Bhinda

... Petitioner

Versus

State of Punjab and another

.. Respondent

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present: Mr.G.B.S. Dhillon, Advocate
for the petitioner.

Mr.Anup Singh, AAG, Punjab.

Mr.K.S. Sidhu, Advocate
for the respondent No.2.

SUVIR SEHGAL, J. (ORAL)

CRM-41646-2023

Application is allowed, as prayed for.

Annexure R-2/6 is taken on record.

CRM-M-23060-2022

1. This is the third petition filed under Section 439 Cr.P.C. seeking grant of post-arrest bail in:-

FIR No.	Dated	Police Station	Sections
55	02.05.2017	Kulgarhi, District Ferozepur	302, 307, 506, 336, 148, 149 IPC and Sections 25 and 27 of Arms Act, 1959

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2. Version of the prosecution is that FIR, has been registered on the statement of Balwinder Singh alleging that when he was at home, at about 7:15 a.m., he heard some noise. When he and his family members stepped outside, they saw a Bolero camper car being driven by Karaj Singh, who was accompanied by Lakha Singh, Ranjit Singh, Sukhjinder Singh, Gurwinder Singh Pindu, Pargat Singh, Chanan Singh and Sukhjinder Singh's brother-in-law (present petitioner). It was followed by a Swift car being driven by Jaspal Singh Jassa, who was accompanied by 6-7 unknown unarmed persons on three motorcycles. Chanan Singh, Karaj Singh and Bachittar Singh Mor instigated the co-accused to attack the complainant and his family members. Lakha Singh fired on complainant's father, Harnam Singh, which hit his abdomen and he fell. When the complainant and his brother, Joginder Singh tried to save him, Ranjit Singh, Pargat Singh, Sukhjinder Singh and Jaspal Singh fired upon them. Savinder Kaur, complainant's sister-in-law and his nephew Gurpreet Singh came there and raised an alarm. On spotting them, the accused fled from the spot while firing in the air. Harnam Singh died on the spot and Joginder Singh was taken to a hospital, where he succumbed to his injuries. It has been alleged that the accused belong to a rival political party and they wanted to forcibly take possession of the Panchayat land after the change in the Government.

3. Counsel for the petitioner contends that no role has been ascribed to the petitioner in the FIR. He submits that Savinder Kaur, widow of Joginder Singh, in her statement recorded under Section 161, Cr.P.C., after the death of her husband, falsely accused the petitioner of fatally injuring her

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husband. Counsel asserts that during the course of the trial, prosecution moved an application under Section 319 Cr.P.C. and Pargat Singh has been summoned as an additional accused, who has yet to be served. Counsel submits that the trial is likely to start *de novo* and the petitioner, who is in custody since 12.05.2017 deserves to be enlarged on bail. He further submits that first petition for grant of regular bail filed by the petitioner was withdrawn from the Court in December, 2018, whereas the second petition was declined in October, 2021. Reliance has been placed upon the judgment of the Supreme Court in *Union of India Versus K.A. Najeeb (2021) 3 SCC 713*.

4. *Per contra*, State counsel upon instructions from ASI Jagtar Singh has opposed the petition. He is supported by counsel for the complainant. It has been submitted that accused had attacked the complainant and his family members and have seriously injured and murdered two of the family members of the complainant. Counsel submits that there is direct evidence against the accused of a heinous crime. It has been submitted that during the course of incident, petitioners snatched the .32 bore revolver from co-accused Lakha Singh, fired upon Joginder Singh and recovery of weapon has been effected from the petitioner. Reference has also been made to the FSL report. Upon specific instructions, State counsel submits that after the summoning of the additional accused, fresh charge has not been framed.

5. I have heard counsel for the parties and considered their respective submissions.

6. Petitioner is in confinement for the last more than six and a half

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years. As a result of summoning of additional accused, the trial is likely to start afresh. Noticing the period of custody, the stage of trial, the role ascribed to the petitioner, which is debatable, his young age and clean antecedents, this Court is of the view that the petitioner deserves to be released on bail, during the pendency of the trial. Previous petition preferred by the petitioner was rejected by this Court two years earlier, is another factor, which has weighed with this Court.

7. In view of the above, without advertng to the merits or demerits of the arguments addressed by counsel for the parties, petition is allowed. Petitioner is ordered to be released on bail on furnishing adequate bail/surety bonds to the satisfaction of the Trial Court/Duty Magistrate, concerned.
8. Observations made hereinabove shall not be construed to be an expression of opinion on the merits of the case.
9. Miscellaneous application shall stand disposed of.

(SUVIR SEHGAL)
JUDGE

03.11.2023
Brij

Whether Speaking/Reasoned	Yes/No
Whether Reportable	Yes/No