

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

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1. CRM-M-24030-2022 (O&M)
Date of decision: 26.07.2023

Lovepreet SinghPetitioner

Versus

State of PunjabRespondent

2. CRM-M-21438-2022 (O&M)
Date of decision: 26.07.2023

Kanwaljit SinghPetitioner

Versus

State of PunjabRespondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present : Mr. Narinder S. Lucky, Advocate
for the petitioner in CRM-M-24030-2022.

Mr. G.P.S. Ghuman, Advocate and
Mr. Shivraj Daumajra, Advocate
for the petitioner in CRM-M-21438-2022.

Mr. Amit Rana, Sr. DAG, Punjab.

Mr. Gaurav Datta, Advocate and
Ms. Srishti S. Sharma, Advocate
for the complainant.

MANJARI NEHRU KAUL, J. (ORAL)

1. The petitioners are seeking the concession of bail under Section 439 of the Cr.P.C. in case FIR No.104 dated 29.09.2021 under Sections 302, 148 and 149 of the IPC and Sections 25 and 27 of the Arms Act, 1959 (Sections 341, 323, 201 and 307 of the IPC added and Section 27 of the Arms Act deleted lateron) registered at Police Station Verowal, District Tarn Taran.

2. While drawing the attention of this Court to the allegations levelled in the FIR which has been annexed as Annexure P-1, learned counsel for the petitioners submit that a perusal of the same leaves no manner of doubt that no injury much less fatal on the person of the deceased, has been attributed to the petitioners. They submit that though it was alleged that the accused including the petitioners at the time of the occurrence in question had attacked the complainant party and the deceased with datars, however, the falsity of the allegations levelled in the FIR in question found no corroboration from any medical evidence on record. Learned counsel submit that the post mortem report of the deceased reflected only two fire arm injuries on his person and other than that there was no other injury found on him. Learned counsel submit that the petitioners have been in custody since 04.10.2021 and only 03 prosecution witnesses out of the 32, including the sole material witness i.e. the complainant/eye witness stand examined. They submit that in the circumstances, further incarceration of the petitioners would serve no useful purpose as trial would take considerable time to conclude. It has also been submitted that the petitioners have clean antecedents and are not involved in any other criminal case much less a case of similar nature.

3. Per contra, learned State counsel assisted by learned counsel for the complainant, has vehemently opposed the prayer and submissions made by the counsel opposite. Learned State counsel, on instructions from ASI Avtar Singh, has submitted that the petitioners were named in the FIR in question and still further petitioner Lovepreet Singh who was armed with a datar had raised a lalkara during the

occurrence in question. However, learned State counsel on instructions, has not disputed that the deceased died of fire arm injuries and the fatal injuries had been attributed to co-accused Cheti. Learned State counsel has also not been able to dispute on instructions that there was no medical evidence on record either of the deceased or any of the witnesses which would reflect that any other injuries much less with datars had been sustained by the deceased or any of the witnesses. Learned State counsel has still further not disputed that the complainant, who was an eye witness to the occurrence in question, stands examined. He, however, submits on instructions, that another witness, namely Gurwinder Singh, had left the country and despite the case having been adjourned on a number of occasions, had failed to put in an appearance to depose before the Trial Court.

4. I have heard learned counsel for the parties and perused the material placed on record.

5. It has not been disputed by the learned State counsel as well as the counsel for the complainant that the petitioners have not been attributed fatal injuries on the person of the deceased, rather only their presence has been shown along with datars at the time of the alleged occurrence. The trial shall take considerable time to conclude as 29 prosecution witnesses remain to be examined. The sole material witness i.e. the complainant/eye witness already stands examined. In the facts and circumstances as enumerated hereinabove, further incarceration of the petitioners would serve no useful purpose. This Court, therefore, deems it fit to extend the concession of bail to the petitioners.

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6. The instant petitions are allowed. The petitioners be admitted to bail to the satisfaction of the Trial Court/Duty Magistrate concerned. However, it is made clear that anything observed hereinabove shall not be construed to be an expression of opinion on the merits of the case.

26.07.2023

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(MANJARI NEHRU KAUL)
JUDGE

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