

2023:PHHC:097754

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

210

CRM M-23947 of 2022

Date of Decision: July 26, 2023

Lovepreet Singh @ Love

...Petitioner

Vs.

State of Punjab

...Respondent

CORAM : HON'BLE MR. JUSTICE N.S.SHEKHAWAT

Present : Mr. Kuljit Singh Bal, Advocate for the petitioner.

Mr. Mohit Chaudhary, AAG, Punjab.

Mr. R.S. Bains, Sr. Advocate with
Mr. Aman Raj Bawa, Advocate
for respondent No. 2.

N.S.SHEKHAWAT, J. (Oral)

1. The petitioner has filed the instant petition under Section 439 Cr.P.C. with a prayer to grant a regular bail to him in case FIR No. 63 dated 27.03.2020 registered under Sections 302, 120-B, 34, 201, 336, 323, 307, 323, 148 and 149 IPC and Sections 25, 27, 29, 54 and 59 of Arms Act, at Police Station Chheharta, District Amritsar.

2. As per the story of the prosecution, the case was registered on the basis of statement made by Gurpreet Singh. As per him, on 27.03.2020, he and his brother Davinder Singh were there in their house and Mandeep Kiryana Store which was being run by Lakshmi was closed due to curfew. At about 05.30/5.45 p.m., Lovepreet Singh (petitioner) and Sarabjeet Singh @ Saba started pushing the door of said Kiryana store and the owners of the store

came out and told that the store was closed due to curfew. Lovepreet Singh started abusing the shopkeeper and when Lakshmi came out of the store, Lovepreet Singh pushed her and she fell on the ground. Gurvail Singh came forward to save her, but they had hit something on the head of the Gurvail Singh and left the place by claiming that they would come back. Again Lovepreet Singh, Sarabjeet Singh @ Saba and Janak Lal and 2/3 other boys, who were armed with *Dattar* and swords and Sabha was armed with a pistol, came at the spot. Sarabjeet Singh @ Saba fired in the air and again fired towards Davinder Singh, who tried to run away from the spot but the fire shot hit on the right side of his back. They arranged the conveyance and took Davinder Singh to Amandeep Hospital and the case was registered against the accused. After that, the accused were arrested and the weapons used by them in the commission of the crime were recovered. However, on 31.03.2020, the police got the information that Davinder Singh, injured had expired and the offence under Sections 302/120 IPC were also ordered to be added by the police.

3. Learned counsel for the petitioner contends that after the alleged incident, Davinder Singh, injured was taken to Amandeep Hospital on 27.03.2020 and was provided the treatment there. While referring to medical record of Amandeep Hospital (Annexure P-9), learned counsel for the petitioner contends that necessary investigations were conducted in Amandeep Hospital and the patient

was shifted to ICU for further care. Definitive treatment was given to him by removing the bullet and he was kept under observation in the recovery room. Thereafter, Davinder Singh was shifted to ICU for further post operative care, then again shifted to the ward and was discharged under satisfactory condition on 29.03.2020. He further contends that again on 30.03.2020, Davinder Singh, injured complained of pain and was again shifted to the hospital, where he was advised CECT abdomen by the doctors. Tests were conducted and he was again admitted in the Amandeep Hospital, where he died of sudden cardiac arrest. Learned counsel, while referring to the medical record (Annexure P-4) submits that the cause of death in the instant case was septic shock leading to cardiac arrest. He contends that Davinder singh had not died because of the injuries but due to the negligence on the part of the treating doctors. Learned counsel further contends that the petitioner was not attributed any specific role in the present case and no recovery was effected from him in the present case. Further, from 27.03.2020 to 31.03.2020, the prosecution had alleged that Sarabjeet Singh @ Saba was the main accused person who had fired the shots at Davinder Singh, since deceased. However, after the death of Davinder Singh on 31.03.2020, the prosecution alleged that Rubinder Singh was the main accused and he had fired shots, in stead of Sarabjeet Singh @ Saba. Even, the statements of three witnesses were also recorded to that effect. He further contends that on one hand, Rubinder Singh was shown as main accused by

exonerating Sarabjeet Singh @ Saba whereas as per statement made by Davinder Singh, injured, Sarabjeet Singh @ Saba was the main accused, who fired shots. Thus, the prosecution had falsely implicated the present petitioner and other accused. Learned counsel further contends that in the present case, he was arrested on 04.04.2020 and is in custody since then. Thus, he is in custody for the last about 03 years and 04 months and the trial is at its initial stage. Apart from that, the main witness PW1 Lakshmi has also been examined by the prosecution and even her statement was self contradictory.

4. On the other hand, learned State counsel assisted by the learned counsel for the complainant vehemently opposed the prayer made by the learned counsel for the petitioner on the ground that he was the main accused, who had instigated other accused to cause bullet injury to the deceased. Even, he had initiated the fight between the parties and does not deserve the concession of bail. However, the learned State counsel admits that the present petitioner is in the custody for the last about 03 years and 04 months and only three witnesses out of total 29 witnesses have been examined in the present case. Even, the learned State counsel admits that no specific injury has been attributed to the present petitioner and no recovery was effected from him. It is also admitted by the learned counsel for the parties that Janak Lal, co-accused has been granted the concession of

bail vide order dated 09.11.2022 passed in CRM M-21936-2021 passed by this Court.

5. I have heard learned counsel for the parties and perused the case file very carefully.

6. It is not in dispute that the petitioner was arrested in the present case on 04.04.2020 and has undergone an actual sentence of 02 years, 08 months and 02 days. However, no specific injury has been attributed to the present petitioner and no recovery effected from him. Even as per the case of the prosecution, Davinder Singh had died on account of gun shot injury, which was attributed to Rubinder Singh, co-accused and one pistol of .32 bore had been recovered from Rubinder Singh.

7. Without commenting on the merits of the case, the present petition is allowed and the petitioner is ordered to be released on bail subject to his furnishing bail bonds/surety bonds to the satisfaction of the trial Court/Duty Magistrate/Chief Judicial Magistrate, concerned.

8. It is clarified that the observations have been made in this order only for the limited purpose of disposal of the present bail application and the trial Court shall decide the main case independently on the basis of evidence led by the parties, uninfluenced by the observations made by this Court.

9. It is also made clear that the present petitioner shall not try to influence or threaten the complainant or any other witness of the present case. In case, the petitioner indulges in any such act, it shall be viewed seriously and the State/complainant shall be at liberty to move an application for cancellation of concession of bail granted to the present petitioner.

July 26, 2023
amit rana

(N.S.SHEKHAWAT)
JUDGE

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