

CRM-M-25346-2023;
CRM-M-46055-2023 &
CRM-M-23220-2023;

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2023:PHHC:126250

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

(212)

1. CRM-M-25346-2023

Sukhchain Singh alias BhujiaPetitioner

Versus

State of PunjabRespondent

2. CRM-M-46055-2023

Manpreet Singh alias PatwariPetitioner

Versus

State of PunjabRespondent

3. CRM-M-23220-2023

Gurjinder Singh alias Gurinder Singh alias BabaPetitioner

Versus

State of PunjabRespondent

Date of decision: - 25.09.2023

CORAM : HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr. Ishan Gupta, Advocate,
and Ms. Palvi, Advocate for the petitioner.
(in CRM-M-25346-2023 & CRM-M-23220-2023).

Mr. Preetinder Singh Ahluwalia, Advocate for the petitioner.
(In CRM-M-46055-2023).

Mr. Ferry Sofat, Additional Advocate General, Punjab.

VIKAS BAHL, J. (ORAL)

1. This order will dispose of three petitions i.e., CRM-

25346-2023 filed by petitioner Sukhchain Singh alias Bhujia; CRM-M-46055-2023 filed by petitioner Manpreet Singh alias Patwari; and CRM-M-23220-2022 filed by petitioner Gurjinder Singh alias Gurinder Singh alias Baba.

2. The said three petitions have been filed under Section 439 Cr.P.C. for the grant of regular bail to the petitioners in FIR No.81 dated 07.05.2022, registered under Sections 307, 353, 186 and 34 IPC; Section 21(c) of the Narcotic Drugs & Psychotropic Substances Act; and Section 25 of the Arms Act (offence under Section 473 IPC has been added later on), at Police Station Sadar Faridkot, District Faridkot.

3. Learned counsel for the petitioner Sukhchain Singh alias Bhujia in CRM-M-25346-2023 has submitted that since the said petitioner is named in the FIR, thus, he seeks to withdraw the present petition, at this stage.

4. In view of the above-said statement of learned counsel for the petitioner, the petition bearing CRM-M-25346-2023 is dismissed as withdrawn, at this stage.

5. Learned counsel for the petitioners appearing for accused Manpreet Singh @ Patwari and Gurjinder Singh alias Gurinder Singh alias Baba have submitted that neither the said two petitioners were named in the FIR, nor as per the case of the prosecution, were apprehended at the spot, nor, any recovery of any pistol or any narcotic drug has been effected from the said two petitioners. It is further submitted that the said two petitioners have no link with the Etios Car in

which four persons, who have been named in the FIR i.e., Kuldeep Singh @ Keepa, Sukhchain Singh @ Bhujia, Sukhmander Singh @ Kala and Sewak Singh were travelling and were apprehended as per the case of the prosecution. It is stated that in the present case, no injury has been caused to any person, much less, the police officials and both the said petitioners are not accused in the RPG attack case that took place in Mohali.

6. Learned counsel appearing for the petitioner Manpreet Singh @ Patwari has submitted that a perusal of the order dated 29.08.2023 would show that as per the arguments raised by learned State counsel, the petitioner was nominated as an accused vide DDR No.44 dated 19.05.2022. A reference has been made to the said DDR No.44 dated 19.05.2022, which has been annexed as Annexure P-3 with the petition (CRM-M-46055-2023) by learned counsel for the petitioner, in which, it has been stated that the petitioner had been implicated on the basis of disclosure statement of one Nishan Singh and from a perusal of which, it is clear that there is no allegation against the petitioner that he was involved with respect to the recovery of 1 KG Heroin, which had been effected from the four persons, who had been apprehended at the spot. It is further stated that the only allegation against the petitioner is that the said Nishan Singh used to call up the present petitioner, Kuldeep Singh and Charat Singh for supplying arms. It is submitted that although, in the said statement emphasis was made on Charat Singh supplying the arms, but subsequently, it has been mentioned that as per the disclosure statement of Nishan Singh, petitioner along with Charat Singh and

Kuldeep Singh used to supply arms. It is, thus, submitted that the highest case against the petitioner would attract offences under Sections 25 & 27 of the Arms Act, regarding which also there is no recovery of any firearm from the petitioner. It is further contended that even the offences under Sections 307, 353 and 186 IPC, either stand alone, or with the aid of Section 34 IPC, are not made out against the petitioner, inasmuch as, it is not the case of the prosecution that there was any prior conspiracy/common intention to attack the police party and in fact, as per the FIR, the police apprehended four persons, who have been named in the FIR, when they were patrolling in order to check suspicious persons and thus, the incident took place at the spur of the moment. It is further submitted that there is no material other than the disclosure statement of the co-accused, which in itself is not sufficient to convict the petitioner.

7. Learned counsel for the petitioner Gurjinder Singh alias Gurinder Singh alias Baba has referred to page 32 of the challan (Annexure P-8), annexed with CRM-M-23220-2023, as per which, the alleged involvement of the petitioner has been mentioned at two places i.e., one at page 42 and another is at page 47. It is submitted that as per page 42 of the paper-book, which contains relevant portion of the challan, a reference has been made to the statement of Kuldeep Singh @ Keepa, recorded on 09.05.2022, as per which, he had purchased 7 pistols 32 bore country made with magazines at the rate of Rs.28000/- per pistol from Manawat area of District Indore, Madhya Pradesh, which, as per him, had been purchased from the present petitioner and an amount of Rs.1.50 lakh

were sent by Sahib through some person and the remaining amount of Rs.46000/- was deposited in the bank account of the present petitioner and a call was made by generating a foreign whatsapp number + 44 from mobile of Kuldeep Singh @ Keepa. It is submitted that on the basis of the said information, the petitioner was not nominated as an accused and neither there is recovery of any pistol/arms from the petitioner-Gurjinder Singh alias Gurinder Singh alias Baba, nor there are any bank details attached along with the report under 173 Cr.P.C. to show the deposit of an amount of Rs.46,000/- allegedly deposited by Sahib in the Bank account of the petitioner, nor the said person Sahib, had been made an accused, nor any call details have been made a part of the report under Section 173 Cr.P.C. It is submitted that as per the relevant portion of challan at page 47 of the paper-book, the petitioner had been nominated as an accused on the basis of statement of Manpreet Singh @ Patwari and regarding the same, DDR No.22 dated 29.05.2022 has been entered and as per the said statement of Manpreet Singh @ Patwari (petitioner in CRM-M-46055-2023), it had been stated by Manpreet Singh @ Patwari that the petitioner had supplied him first two pistols .32 bore and then, 4 pistols @ Rs.30000/- per pistol. It is stated that other than the said disclosure statement, there is no material even remotely linking the petitioner-Gurjinder Singh alias Gurinder Singh alias Baba with the supply of pistols. It is, thus, submitted that the highest case against the petitioner attracts offence under Sections 25 & 27 of the Arms Act, regarding which there is no recovery of any firearm from the petitioner. It is contended that

even the offences under Sections 307, 353 and 186 IPC, either stand alone, or with the aid of Section 34 IPC, are not made out against the petitioner, inasmuch as, it is not the case of the prosecution that there was any prior conspiracy/common intention to attack the police party and in fact, as per the FIR, the police had apprehended four persons, who have been named in the FIR, when they were patrolling in order to check suspicious persons and thus, the incident took place at the spur of the moment.

8. Learned counsel for both the petitioners have further brought to the notice of this Court that co-accused of the petitioners had filed petitions raising the plea of false implication in the present case and the Co-ordinate Bench of this Court, vide order dated 29.11.2022, passed in CRM-M-31707-2022, issued notice of motion on the plea of false implication and had directed the trial Court to adjourn the case beyond the date fixed by the Court. It is stated that the petitioner Manpreet Singh @ Patwari is in custody since 25.05.2022 and petitioner Gurjinder Singh alias Gurinder Singh alias Baba is in custody since 06.06.2022 and there are 37 witnesses, none of whom have been examined, thus, the trial is likely to take long time. It is further stated that all the witnesses are official witnesses and thus, the question of the petitioners influencing them does not arise.

9. On the other hand, learned State Counsel has opposed the present petition for grant of regular bail and has submitted that as per the version given in the FIR, the police party were in a Government Vehicle

for checking and patrolling the suspicious persons and activities of gangsters and at about 7.30 p.m. it was found that from the side of village Bhana, one car was seen coming and ASI Jasveer Singh, signalled the said car to stop by flashing a torch light, then, the car occupants instead of stopping the car, tried to run away from the spot and thereafter, Inspector-Harbans Singh, who is complainant in the FIR, along with other officers, who were standing on blockade No.2 parked the Government vehicle in between the road, but the accused persons, while trying to escape smashed their car against the Acacia trees and the ignition of their car went off and thereafter, the occupants of the car fired 2-2 shots with an intention to kill and the police party in order to save themselves, fired 2 shots in the air from their service rifles and then, the car occupants tried to escape from the spot after opening doors of the car, but all the four persons were apprehended from the Etios car. The said four persons are Sewak Singh, Kuldeep Singh @ Keepa, Sukhchain Singh alias Bhujia and Sukhmander Singh @ Kala and the recovery of four pistols along with seven live cartridges, two pellets and 1kg of heroin was effected from them. It is also submitted that the offence committed by the accused persons was heinous and during interrogation, Kuldeep Singh @ Keepa who was apprehended at the spot, named Nishan Singh as one of the accused and on the basis of the said statement of Nishan Singh, petitioner Manpreet Singh @ Patwari was nominated as an accused, vide DDR No.44 dated 09.05.2022, as per which, it is the said petitioner along with other accused who had supplied arms to the co-accused. It is submitted

that on the basis of the disclosure statement made by Manpreet Singh @ Patwari, petitioner Gurjinder Singh alias Gurinder Singh alias Baba was nominated as an accused, vide DDR No.22 dated 29.05.2022 from which it came about that the said Gurjinder Singh alias Gurinder Singh alias Baba had also supplied arms. It is further stated that both the petitioners are involved in several other cases and thus, do not deserve the concession of bail. The other facts, as highlighted by the learned counsel for the petitioners, have however not been disputed.

10. Learned counsel for the petitioner Manpreet Singh @ Patwari, in rebuttal, has submitted that in all the cases, the petitioner has either been acquitted or discharged or is on bail, whereas, learned counsel for the petitioner Gurjinder Singh alias Gurinder Singh alias Baba, in rebuttal, has submitted that the petitioner is in custody in one case and has been granted bail in the other cases. In support of their arguments, learned counsel for both the petitioners have relied upon the judgment of Hon'ble Supreme Court in "**Maulana Mohd. Amir Rashadi Vs. State of U.P. and another**", **reported as 2012 (2) SCC 382** to contend that the facts and circumstances of the present case are to be seen while deciding a bail application and the bail application of the petitioner cannot be rejected solely on the ground that the petitioners are involved in other cases. The relevant portion of the said judgment is reproduced hereinbelow:-

"As observed by the High Court, merely on the basis of criminal antecedents, the claim of the second respondent cannot be rejected. In other words, it is the duty of the Court to find out the role of the accused in the case in which he has been charged and

other circumstances such as possibility of fleeing away from the jurisdiction of the Court etc.”

11. This Court has heard learned counsel for the parties and has gone through the paper-book.

12. Petitioner Manpreet Singh @ Patwari is in custody since 25.05.2022 and petitioner Gurjinder Singh alias Gurinder Singh alias Baba is in custody since 06.06.2022 and the investigation is complete and the challan has been presented and there are 37 prosecution witnesses, none of whom have been examined and thus, the trial is likely to take time. All the witnesses are official witnesses and thus, the question of the petitioners influencing them does not arise. It is not disputed that both the petitioners were not named in the FIR and were not apprehended at the spot, nor any recovery of any pistol or any narcotic drug has been effected from the present petitioners. Petitioners are not connected with the Etios car, in which, the four named accused persons were travelling at the time of the incident. No injury has been inflicted on any person, much less, the police officials in the present case. Both the petitioners are not stated to be accused in the RPG attack case that took place in Mohali. The argument of learned counsel for both the petitioners to the effect that the question of there being any conspiracy so as to invoke offences under Section 307, 353 and 186 IPC with the aid of Section 34 IPC does not arise as they were neither at the spot nor as per the case of the prosecution there was any prior conspiracy/common intention for attacking the police as the entire incident took place at the spur of moment, cannot be

outrightly rejected. The said argument would be considered during the course of trial and this Court does not wish to give any final opinion on the said aspect. Petitioner Manpreet Singh has been nominated in the present case as an accused on the basis of DDR No.44 dated 19.05.2022 and even as per the said DDR, co-accused Nishan Singh had made a disclosure statement that he used to communicate telephonically with the present petitioner, Kuldeep Singh alias Keepa and Charat Singh for supply of arms and the petitioner-Manpreet Singh @ Patwari was nominated as an accused on account of the disclosure statement of said Nishan Singh alleging that the petitioner, Kuldeep Singh @ Keepa and Charat Singh used to supply arms and wanted to cause loss of life to Billa Sheron and Harry Harike. It is not in dispute that no recovery of firearm has been effected from the said petitioner nor there are any phone call details attached along with the report under Section 173 Cr.P.C, much less, between Nishan Singh and the said petitioner. Petitioner-Gurjinder Singh alias Gurinder Singh alias Baba has been nominated as an accused vide DDR No.22 dated 29.05.2022, on the basis of the statement of Manpreet Singh @ Patwari in which the allegation against the petitioner-Gurjinder Singh alias Gurinder Singh alias Baba is that he had firstly supplied him two pistols .32 bore and then, 4 pistols @ Rs.30000/- per pistol. There is no recovery of any pistol from the said petitioner-Gurjinder Singh alias Gurinder Singh alias Baba. The question as to whether the disclosure statements of the co-accused implicating the petitioners would be sufficient to convict the petitioners in the present

case, would be finally considered during the course of trial.

13. Keeping in view the above-said facts and circumstances as well as in view of the law laid down in **Maulana Mohd. Amir Rashadi's case (supra)**, the present petitions i.e., CRM-M-23220-2023 & CRM-M-46055-2023 are allowed and both the petitioners are ordered to be released on bail on their furnishing bail / surety bonds to the satisfaction of the concerned trial Court/ Duty Magistrate and subject to them not being required in any other case.

14. However, nothing stated above shall be construed as a final expression of opinion on the merits of the case and the trial would proceed independently of the observations made in the present order which are only for the purpose of adjudicating the present bail petitions.

15. It is made clear that in case, the petitioners indulge in any criminal activity in future and any act is done by them to threaten or influence the complainant or any of the witnesses, then it would be open to the State to move an application for cancellation of bail granted to the petitioners.

16. All the pending miscellaneous application(s), if any, stand disposed of in view of the abovesaid order.

September 25, 2023
naresh.k

(VIKAS BAHL)
JUDGE

Whether reasoned/speaking?
Whether reportable?

Yes
No