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

**CRM-M-24472 OF 2023 (O&M)
DATE OF DECISION: 31.07.2023**

Jaskirat Singh @ Jassi**...Petitioner****Versus****State of Punjab****...Respondent****CORAM : HON'BLE MR. JUSTICE ARUN MONGA**

Present : Mr. K.S. Brar, Advocate,
For the petitioner.

Ms. Guramrit Kaur, DAG, Punjab.

ARUN MONGA, J. (ORAL)

Petitioner seeks bail in case FIR No.255 dated 29.09.2021 (Annexure P-1), under Sections 120-B, 302, 307, 212, 216 of Indian Penal Code, 1860 (for short "IPC") and Sections 25 and 27 of Arms Act, 1959 (for short "Act"), at Police Station, City Sri Muktsar Sahib, District Sri Muktsar Sahib.

2. Prosecution version of the case, as per the FIR, translated copy of which is contained at Annexure P-1, relevant thereof, *in verbatim* is extracted as below:

"x-x-x-x

Stated that I am resident of above said address and I am running meat shop. We are two brothers. Younger to me is Sham Lal @ Sham, who is running milk dairy of buffalos at Goniana road Shri Mukatsar Sahib. Today my brother along with one Pritpal Singh @ Bholla, resident of Goniana road had come from Bus Stand Goniana road regarding his some personal work and he was talking with Pritpalsingh @ Bholla at Goniana Chowk, time will be around 13:00/ 14:00 Hours, that time I was sitting in my shop, then I heard sound of gunshot firing at Goniana Chowk, Shri Mukatsar Sahib, when I came out from shop by running, then I saw that my brother Sham Lal @ Shamma was running towards his diary from Goniana Chowk and 2-3 youths who were having revolvers in their hands were following to my brother and were made gunshot firing on brother Sham Lal @ Shamma, along with these youths other youths by riding on Bullet Motorcycle & Splendor Motorcycles were also following to them & to my brother and also making gunshot firing on my brother. I also run behind them and then my brother entered in the house of Subhash Chander and these persons also entered in the house of Subhash

*Chander and due to suffering gunshot firing my brother fell down and these persons made gunshot firing in the head & stomach of my brother. I raised Alarm" Killed Killed", then these persons also made two gunshot fires on me with the intension to kill me also, which hit on my both legs and these persons by threatening me & by making gunshot firing in air, by riding on their vehicles along with their respective weapons ran away from the spot and due to suffering gunshot fire, my Sham Lal @Shamma died on the spot. The gunshot fires have been hit on the head, stomach, and legs of brother. After that my son Gautam by arranging vehicles admitted me in civil hospital, Shri Mukatsar Sahib, where I am under treatment. About 15 days ago, an altercation was held between my brother Sham Lal @ Shamma and Amar Sandhu, resident of KirpalKe and he had pointed out pistol on my brother and had threatened to kill him and my brother Sham Lal @ Shamma had snatched pistol from Amar Sandhu and later on pistol was taken from my brother. Legal action may be taken against unknown persons.
x-x-x-x"*

Petitioner was arrested as a suspect on 05.05.2021, after 7 months of the FIR.

3. Learned counsel for petitioner submits that petitioner has been falsely implicated in this case. It is third supplementary statement made by complainant, when name of the petitioner figured for the first time, that too, after almost seven months of registration of FIR. No overt act has been attributed to him. It is admitted case of prosecution that petitioner was not present at the spot. No injury has been attributed to petitioner.

3.1 Learned counsel further argues that petitioner has been apprehended on suspicion of carrying out *recce* of crime scene on the asking of co-accused. There is no independent evidence of petitioner having done so, other than bald allegations of complainant which too were recorded in third supplementary statement made by complainant, and that too, after 7 months of registration of FIR. He thus argues that petitioner has neither been named in the FIR nor was earlier on any whisper of his role even in the two previous supplementary statements. It is only as an after thought that he has been named as co-conspirator of accused in the third supplementary statement. Petitioner is not involved in any other case.

3.2 Learned counsel further submits that co-accused, namely, Pardeep Kumar, Navdeep Singh, who have been attributed much more serious role in carrying out conspiracy to eliminate the deceased, have already been accorded the concession of bail by a co-ordinate Bench of this Court vide order dated 28.09.2022 passed in CRM-M-21892-2022 and order dated 19.01.2023 passed in CRM-M-33283-2022 (Annexure P-3 and P-4, respectively). He further contends that petitioner is entitled to concession of bail on the ground of parity.

4. Per contra, learned State counsel on instructions from ASI Baldev Singh opposes the bail petition. Allegations against the petitioner are serious in nature and therefore, he does not deserve concession of bail, at this stage, she contends.

5. I have heard rival contentions of learned counsels for the parties and have gone through the case file.

6. Challan was presented on 02.08.2022 but charges are yet to be framed. Investigation is complete *qua* petitioner, thus, he is not required for any further custodial interrogation. Trial is likely to take a long time as it is proceeding at a snail pace. Allegations against petitioner are matter of trial at this stage.

7. Bail allows an accused to maintain his freedom until his guilt or innocence is determined. Whereas, petitioner has already been in jail for the past more than one year and one month, being behind bars since 03.06.2022. He is being kept in preventive custody merely on an unfounded suspicion that if he is let out, he may either tamper with evidence and/or influence witnesses.

8. Petitioner is stated to be sole bread winner having old parents to look after and in his absence, they are living in sheer penury. Being a family man having responsibilities and clean antecedents, it is unlikely that he poses as a flight risk or will flee from the trial proceedings.

9. Co-accused have already been extended the concession of bail by a co-ordinate Bench of this Court vide orders contained Annexures P-3 and P-4,

respectively. Case of petitioner appears to be on better footing than that of co-accused. I see no reason as to why petitioner be not granted the concession of bail in this case on parity.

10. Considering the overall scenario and without commenting on the merits of the case, the instant petition is allowed. I am of the view that no useful purpose would be served to keep the petitioner in further preventive custody.

11. Accordingly, petitioner is ordered to be released on bail, in case not required in any other case, on his furnishing bail bonds and surety bonds to the satisfaction of learned trial Court, where his case is being tried and in case he/she is not available, before learned Duty Judge, as the case may be.

12. In case, petitioner is found to be involved or gets involved in any offence while on bail, the prosecution shall be at liberty to seek cancellation of his bail in the instant case.

13. It is made clear that any observations and/or submissions noted hereinabove shall not have any effect on merits of the case as the same are for the limited purpose of hearing the instant bail petition alone and learned trial Court shall proceed without being influenced with this order.

14. Pending application(s), if any, shall also stand disposed of.

JULY 31, 2023
Shalini

(ARUN MONGA)
JUDGE

Whether speaking/reasoned:
Whether reportable:

Yes/No
Yes/No