

CRM-M-26058-2022

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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH**CRM-M-26058-2022 (O & M)****Date of decision: 31.05.2023**

Shamshad Ali @ Jaggi

.... Petitioner

V/s

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present: Mr. Rakesh Gupta, Advocate,
for the petitioner.

Ms. Ramta K Chaudhary, DAG, Punjab.

JASJIT SINGH BEDI, J. (Oral)

The prayer in the present petition under Section 439 Cr.P.C. is for the grant of regular bail to the petitioner in case FIR No.113 dated 23.11.2021 (Annexure P-1) under Sections 307, 323, 506, 148 and 149 IPC and Section 25 of the Arms Act, 1959 registered at Police Station Badali Ala Singh, District Fatehgarh Sahib.

2. The present FIR came to be registered at the instance of Gurpreet Singh who stated that he was working at G.S. Laboratory, Gadanga. About 10 days ago, Monu son of Daljeet Singh and Babbal son of Najar Khan have come to his laboratory and stated that he (complainant) was disrespecting them. An altercation took place. Both Monu and Babbal threatened him and went away. On 22.11.2021, while he (complainant) alongwith Hardeep Singh, Ravinder Singh and Gurpreet Singh were going for an outing to BR Mall, Kharar in a Figo car bearing No.PB-23-J-9779,

then, Babbal's brother, namely, Jaggi son of Najar Khan who was running a Barber shop knocked at their (complainant party) car window. Upon this, they (complainant party) came out of the car and an argument took place between them and Jaggi. At about 5.15 p.m., Jaggi armed with a *danda*, Babbal armed with iron rod, Bhalinder armed with wooden *danda* and Shamshad Ali @ Jaggi (petitioner) son of Sitar Mohammad alongwith Monu came to the spot. On coming their, Babbal raised a *lalkara* and stated that a lesson was to be taught to them (complainant party). Jaggi and Monu caught hold of Hardeep Singh from his arms and Monu, Bhalinder Singh had also caught hold of him. Then, Shamshad Ali @ Jaggi pulled out a pistol from the dub of his pant and fired a shot in the abdomen of Hardeep Singh with an intention to kill him, due to which Hardeep Singh fell down. Bhalinder Singh gave a *danda* blow on the head of Hardeep Singh and also gave slaps and fist blows to them (complainant party). On raising a *raula*, the people gathered at the spot and the petitioner was beaten up by the people. The remaining accused ran away from there. Hardeep Singh was taken to the Civil Hospital, Fatehgarh Sahib. Legal action was sought against the accused.

3. The learned counsel for the petitioner contends that the petitioner has been falsely implicated in the present case. The allegations of the co-accused of holding the injured and the petitioner firing a gun shot at him is unbelievable. As the petitioner was in custody since 24.11.2021 and only 02 out of the 14 prosecution witnesses had been examined including the complainant-Gupreet Singh and the injured-Hardeep Singh, the petitioner was entitled to the concession of bail.

4. The learned counsel for the State, on the other hand, contends that the petitioner is the main accused. Merely because he had been in custody since 24.11.2021, did not entitled him to the grant of bail. He, however, concedes that two main prosecution witnesses, namely, PW-1/Gurpreet Singh (complainant) and PW-2/Hardeep Singh (injured) have been examined as also the fact that the co-accused of the petitioner have been granted the concession of bail either by this Court or by the Trial Court.

5. I have heard the learned counsel for the parties.

6. The veracity of the prosecution case against the petitioner and his co-accused shall be established during the course of Trial. Admittedly, the two material witnesses i.e. the complainant and the injured stand examined. The petitioner is stated to be in custody since 24.11.2021 and only two of the 14 prosecution witnesses have been examined so far. Therefore, the Trial of the case is not likely to be concluded anytime soon. In this situation, the further incarceration of the petitioner is not required.

7. Thus, without commenting upon the merits of the case, the present petition is allowed and the petitioner-Shamshad Ali @ Jaggi is ordered to be released on bail to the satisfaction of the Trial Court/Duty Magistrate concerned.

9. The petitioner shall appear on the first Monday of every month before the police station concerned till the conclusion of the trial and furnish an affidavit each time that he is not involved in any case/crime other than the present one.

10. In addition, the petitioner (or someone on his behalf) shall prepare an FDR in the sum of Rs.1,00,000/- and deposit the same with the

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Trial Court. The same would be liable to be forfeited as per law in case of the absence of the petitioner from trial without sufficient cause.

(JASJIT SINGH BEDI)
JUDGE

May 31, 2023
sukhpreet

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No