

2023:PHHC:097081

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

107+283

CRM M-28959 of 2023 (O&M)
Date of Decision: July 27, 2023

Sandeep Singh @ Rinku

...Petitioner

Vs.

State of Punjab

...Respondent

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

Present : Mr. Gurnam Singh, Advocate for the petitioner.

Mr. Mohit Chaudhary, AAG, Punjab.

N.S.SHEKHAWAT, J. (Oral)

CRM 30605 of 2023

Allowed, as prayed for, subject to all just exceptions.

Order dated 01.07.2023 passed by the learned Additional Sessions Judge, Jalandhar (Annexure P-6) is taken on record. Office to tag the same at an appropriate place.

CRM 27164 of 2023

Allowed, as prayed for, subject to all just exceptions.

Statement of PW6 recorded by the learned Additional Sessions Judge, Jalandhar (Annexure P-5) is taken on record. Office to tag the same at an appropriate place.

CRM 29789 of 2023

1. The applicant/petitioner has filed the present application with a prayer to carry out the necessary corrections in the head note and prayer clause of the main case.

2. Learned counsel for the applicant/petitioner submits that in the head note as well as prayer clause of the petition, Section 320 IPC has been mentioned instead of Section 302 IPC, due to typographical mistake.

3. Notice of the application.

4. On the asking of the Court, Mr. Mohit Chaudhary, AAG, Punjab, accepts notice on behalf of State of Punjab and submits that he has no objection to the prayer made by the applicant/petitioner.

5. In view of the above, the Registry of the Court is directed to carry out the correction in the head note as well as prayer clause of the main petition and Section 302 IPC is ordered to be mentioned instead of Section 320 IPC.

6. The application stands allowed.

CRM M-28959 of 2023

1. The petitioner has moved the present petition under Section 439 Cr.P.C. with a prayer to grant the concession of regular bail to him in case FIR No. 232 dated 26.11.2021 under Sections 302, 307, 120-B, 148 and 149 of Indian Penal Code and Section 25 of Arms Act registered at Police Station Division No. 6, District Police Commissionerate, Jalandhar.

2. As per the FIR, complainant Kavi Kumar @ Pawan son of Baldev Raj stated that at about 9.00 p.m. on 25.11.2021, Sandeep Singh @ Rinku hatched a criminal conspiracy to commit the murder of Lucky Gill @ Aniket Gill. Even, the injuries were caused on the

persons of Kavi Kumar, complainant as well as Ashish Kumar, eye witness of the occurrence. Due to the injuries suffered by Lucky Gill @ Aniket Gill, he had died in the incident. With these broad allegations, the case was registered against the accused.

3. Initially, the final report under Section 173 Cr.P.C. was presented against Sandeep Singh and Dilpreet Singh. However, later on, the matter was investigated further and a supplementary challan was also presented against Gurmeet Singh @ Budhu, Simar Raj @ Giri Raj and Sarwan Singh @ Mani Lahoria @ Don.

4. Learned counsel for the petitioner contends that the entire prosecution case was primarily based on the testimonies of Kavi Kumar @ Pawan, cousin of Lucky Gill @ Aniket Gill, since deceased and Ashish Kumar, alleged injured/eye witness. However, from a perusal of the statement of Kavi Kumar (Annexure P-2) and Aashish Kumar (Annexure P-5), it is evident that both the material witnesses had turned hostile and did not support the case of the prosecution. Apart from that, the prosecution examined Kulwant Rai Gill PW4, father of the deceased and even he did not support the case of the prosecution. Learned counsel further contends that he was arrested in the present case on 07.12.2021 and is in custody since more than 01 year and 08 months. He further contends that the deceased had died due to the bullet injury suffered by him, however, the said injury is not attributed to the present petitioner. Further, only 12 witnesses have been examined out of total 23 witnesses and the

conclusion of the trial may take quite a long time. He further submits that all the material witnesses of the prosecution have been examined and none of them had supported the case of the prosecution and there are bleak chances of conviction of the present petitioner. Apart from that, there are no chances of influencing the witnesses as most of the material witnesses have already been examined and further custody of the petitioner will serve no meaningful purpose. Still further, co-accused Dilpreet Singh @ Babbu @ Billa has already been granted the concession of bail by learned Additional Sessions Judge, Jalandhar, vide order dated 01.07.2023 (Annexure P-6) and the petitioner is entitled to bail.

5. On the other hand, learned State counsel has vehemently opposed the grant of concession of bail to the petitioner on the ground that the petitioner had been specifically named in the present case FIR and was attributed injuries to the deceased as well as injured. However, he could not dispute the fact that all the material witnesses of the prosecution had turned hostile and the petitioner had undergone 01 year, 07 months and 21 days of actual custody, as per the custody certificate.

6. I have heard learned counsel for the parties and perused the record with their able assistance.

7. It is not in dispute that the petitioner is in custody for the last about 01 year, 07 months and 21 days. Even other accused Dilpreet Singh @ Babbu @ Billa, who was also challaned with

present petitioner, has already been granted the concession of bail by the learned trial Court vide order dated 01.07.2023 passed by the learned Additional Sessions Judge, Jalandhar (Annexure P-6). Further, PW4 Kulwant Rai Gill, PW5 Kavi Kumar and PW6 Aasish Kumar, i.e., all the material witnesses of the prosecution have not supported the case of the prosecution.

8. In view of the above, without commenting any further on the merits, the present petition is allowed and the petitioner is ordered to be released on bail on his furnishing bail bonds/surety bonds to the satisfaction of the learned trial Court/Duty Magistrate/CJM concerned.

July 27, 2023
amit rana

(N.S.SHEKHAWAT)
JUDGE

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