

CRM-M-29518-2023

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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Date of decision: 06.10.2023

Baljinder Singh @ Pinder Singh

....Petitioner

V/s

State of Punjab

....Respondent

CORAM: HON'BLE MR. JUSTICE ARUN MONGA

Present: Mr. Karanjeet Singh Brar, Advocate for the petitioner.

Mr. Mohit Thakur, AAG Punjab.

ARUN MONGA, J. (Oral)

This is fourth foray of the petitioner seeking his release as an undertrial in a case with FIR No.2 dated 06.01.2019 (Annexure P-1) registered under Sections 302 read with Section 34 of the Indian Penal Code, 1860 (for short 'IPC') and Sections 25, 27, 29 and 30 of the Arms Act, 1959 at the Mallanwala, Police Station in Ferozepur. His earlier two petitions were dismissed as withdrawn on 12.07.2021 and 12.11.2021 and third was dismissed on merits on 06.12.2021 by a coordinate Bench.

2. An FIR was lodged based on the statement of the complainant, Amarjit Kaur. She stated that on 05.01.2019, upon hearing noises outside her house, she and her husband went outside. Outside her house, the petitioner, was on driver seat of a tractor with engine roaring and his father was also there along with him. The petitioner, in the company and co-accused, threateningly claimed that the passage leading to their house had to be cultivated because they had won a court case. The complainant and her husband requested them not to do so, but the petitioner fired a shot at the complainant's husband, Karam Singh, hitting him in the right shoulder. Subsequently, the petitioner and the other co-accused fled from the scene. The husband of the complainant was taken to the hospital, where he succumbed to his injuries during treatment. The petitioner was taken into custody on January 08, 2019.

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3. At the outset, the learned counsel for the petitioner contends that the co-accused of the petitioner, namely, Jaswinder Singh alias Roopa and Bahadur Singh, were granted bail by a coordinating Bench of this Court through orders dated 06.11.2020 and 10.11.2020 in CRM-M-11179-2020 and CRM-M-43322-2019, respectively.

3.1 On the merits, the learned counsel submits that incident in question occurred as a self defence, during a heated argument. Moreover, there is a delay in lodging the FIR in question, which raises suspicions of the petitioner's false implication. The petitioner's counsel also argues that there is no need for further custodial interrogation of the petitioner, as nothing remains to be recovered from him. Furthermore, there is no indication that the petitioner would tamper with evidence or influence prosecution witnesses.

4. The learned State counsel opposes the petitioner's bail application, expressing concerns about the possibility of the petitioner fleeing from trial proceedings if granted bail. He submits that fatal injury has been attributed to petitioner. The State counsel does not dispute that the co-accused, Jaswinder Singh alias Roopa and Bahadur Singh have been granted bail by this Court.

5. I have heard the rival arguments and reviewed the case file.

6. In response to a query from the Court, it transpires that the investigation against the petitioner has been completed, and charges were framed on 11.06.2019. At this stage, the allegations against the petitioner are subject to trial. Of the 23 prosecution witnesses, 14 have been examined so far. The trial's progress has been slow, and it is anticipated to take a considerable amount of time. Bail serves the purpose of allowing an accused to remain free until their guilt or innocence is determined. In contrast, the petitioner has been in detention since January 08, 2019, for almost 04 years and 09 months.

7. The petitioner's continued preventive custody is based on an unsubstantiated suspicion that he might tamper with evidence or influence witnesses.
8. Petitioner is 28-year old having responsibility of his old aged parents. As a responsible family man and a stable residence, the petitioner is unlikely to pose a flight risk or evade trial proceedings.
9. Co-accused Singh alias Roopa and Bahadur Singh have already been granted the concession of bail by this Court.
10. Considering the overall scenario, without commenting on merits of the case, the instant petition is allowed. I am of the view that no useful purpose would be served to keep petitioner in further preventive custody.
11. Accordingly, petitioner is ordered to be released on bail 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 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 the case as the same are for the limited purpose of bail hearing alone and learned trial Court shall proceed without being influenced with this order.
14. Pending application(s), if any, shall also stand disposed of.

(ARUN MONGA)
JUDGE

October 06, 2023
Ajay

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