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**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH****CRM-M-32187-2023 (O&M)
DATE OF DECISION: 13.07.2023****Harmanpreet Singh****...Petitioner****Versus****State of Punjab****...Respondent****CORAM : HON'BLE MR. JUSTICE ARUN MONGA**

Present : Mr. Umaid Singh Mann, Advocate,
For the petitioner.

Ms. Guramrit Kaur, DAG, Punjab.

ARUN MONGA, J. (ORAL)

Petitioner, seeks bail in case bearing FIR No.0002 dated 02.01.2020, registered under Sections 120-B, 148, 302 read with Section 149 of the Indian Penal Code, 1860 (for short 'IPC'), Sections 25 and 27 of Arms Act, 1959, Sections 420, 467, 468, 471 IPC and Section 12 of the Passport Act, 1967(which were added later on), at Police Station Majitha, District Amritsar.

2. Per the First Information Report (FIR), on 01.01.2020 at about 8:00 p.m., deceased Gurdeep Singh, brother-in-law (*Jeth*) of complainant Charanjit Kaur, went to Gurudwara Sahib to pay obeisance. When Gurdeep Singh reached near the house of Kabal Singh and was waiting for his wife, namely, Gurjeet Kaur (sister-in-law of complainant), three young persons came from village Buddha side on a motorcycle out of which one was a Sikh and two others were Hindu. All were in the age group of 24-25 years. They fired with their respective pistols towards Gurdeep Singh and fled away on their motorcycle towards village Mann Khera. On raising noise, Hardeep Singh, brother-in-law (*Dewar*) came. Gurdeep Singh was taken to hospital where he died. Allegedly, petitioner Harmanpreet Singh s/o Nirmal Singh and Nirmal

Singh s/o Jagir Singh had earlier threatened to kill the deceased during elections. Complainant thus expressed his suspicion that her brother-in-law had been eliminated at the instance of petitioner Harmanpreet Singh and his father Nirmal Singh in connivance with some unknown persons. An FIR was registered on 02.01.2020. Petitioner was later arrested on 20.03.2020.

3. Learned counsel for petitioner submits that petitioner was not amongst the three, who came on the motorcycle and fired shots at the deceased. Petitioner has been falsely implicated in the present case with the aid of Section 120B IPC. Nothing incriminating has been recovered from petitioner. Per version of complainant, petitioner along with his father had threatened to kill deceased during elections, which were held way back in December-2018. In any case, petitioner was in custody at that time in another case, and could not have threatened the deceased. He was later released on bail in that case on 14.01.2019. Learned counsel further argues that not only co-accused Nirmal Singh has been granted bail by the co-ordinate Bench of this Court, but even otherwise complainant and other eyewitnesses, who are the star witnesses of prosecution, have been examined and they have not supported the case of prosecution. The trial is likely to result in acquittal of the petitioner, contends the learned counsel.

3.1 Learned counsel for petitioner further canvasses that investigation *qua* petitioner is complete as challan was filed long back on 07.06.2020. He also submits that co-accused of the petitioner, namely Nirmal Singh, has also been granted concession of regular bail by a co-ordinate Bench of this Court vide order dated 27.09.2022 (Annexure P-7). Petitioner is entitled to be released on bail on parity with the aforesaid co-accused.

3.2. Learned counsel for petitioner further argues that there is a delay of around four and a half hours in registration of FIR. Per FIR the incident had occurred at 20:00 hours on 01.01.2020 whereas the FIR was registered at 00.40

hours on 02.01.2020. He further contends that in her supplementary statement, complainant had named a brother of petitioner, namely, Harpreet Singh, who is a Sikh gentleman, as one of the perpetrators of crime. However, said Harpreet Singh was found to be innocent by the police during investigation as he was not in the country at the time of alleged incident. He would further maintain that petitioner was also not present at the spot and there is no connecting evidence to show that petitioner is involved in any kind of conspiracy into the alleged crime.

3.3. Learned counsel would further argue that petitioner has added responsibility to look after his old parents. He is unmarried and an agriculturist by profession. He helps his brother in agricultural pursuits.

4. On the other hand, learned State counsel opposes the bail petition on the ground that petitioner is a habitual offender. He is involved in eight more cases. He further submits that petitioner has committed a serious offence.

4.1. On the contrary, learned counsel for petitioner contends that petitioner is already on bail in six out of eight cases.

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

6. In this case, petitioner though named in the FIR, but co-accused of petitioner who too was named i.e. Nirmal Singh, has already been granted concession of regular bail by a co-ordinate Bench of this Court vide order dated 27.09.2022 (Annexure P-7). The material witnesses, including complainant, have not supported the prosecution case. Therefore, apprehension of the prosecution that petitioner should be kept in custody on the ground that he is likely to tamper with the evidence, seems unfounded.

7. Out of total 39 witnesses, 03 are stated to have been examined till date. Trial is unlikely to conclude in near future. Whereas, petitioner has already been languishing in jail for the past around three years and four months

in preventive custody, he being in custody since 20.03.2020. Petitioner is also entitled to bail on the ground of parity since his co-accused Nirmal Singh has already been granted bail by this Court.

8. Additionally, primary purpose of bail is to ensure the accused person's appearance in Court for their trial. By providing bail, the Court seeks to guarantee that the person will attend all necessary Court proceedings and not flee or become a flight risk. In the instant case, there is no likelihood that petitioner might flee or not appear in Court if released on bail. It is stated that petitioner is 34-year old agriculturist, and has fixed abode having family property etc.

9. That apart, since challan has been filed and trial has commenced, petitioner is not required for any custodial interrogation.

10. Considering the overall scenario, particularly the complainant and material witnesses having not supported the prosecution version, but at the same time, 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 petitioners 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 to be involved or gets involved in any offence while on bail, the prosecution shall be at liberty to seek cancellation of their 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 13, 2023
Shalini

(ARUN MONGA)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No