

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-32590-2023

Reserved On: 15.09.2023

Pronounced On: 19.09.2023

Vicky Kumar

.....Petitioner

Vs.

State of Punjab

.....Respondent

CORAM:- HON'BLE MR. JUSTICE DEEPAK GUPTA

Present:- Mr. I.P.S. Kohli, Advocate
for the petitioner

Mr. R.S. Khaira, DAG, Punjab.

DEEPAK GUPTA, J. (ORAL)

The petitioner prays for regular bail by way of this petition filed under Section 439 Cr.P.C in case FIR No.68 dated 06.09.2020 registered under Sections 307/336/452/323/324/326/148/149 & 120-B of the IPC, 1860 and Sections 25/27 of the Arms Act, 1959, (Section 302 IPC, 1860 added later on) registered at Police Station Dhilwan, District Kapurthala.

2. Status report by way of affidavit of Shri Bharat Bhushan (PPS), Deputy Superintendent of Police, Sub-Division Bholath, Kapurthala on behalf of respondent- State has been filed.

3. Initial version of the FIR was recorded on the statement of Surti S/o Gugga, as per which on 06.09.2020, he was present at his house, when he received telephonic call from his nephew's son Sahil to the effect that relatives of paternal aunt Rajia were giving beatings to his father. He (Surti)

CRM-M-32590-2023

with his brother Raj and wife Billo reached village Bhandal Bet, where he got the compromise effected between the niece Rajia and Sikandar Singh, who left for their respective houses. However, at about 2 p.m., when he along with brother Raj and wife Billo were sitting in the courtyard of his nephew Sikander Singh, one car and motorcycles along with 10-12 youngsters came there, entered the house of Sikander Singh, armed with pistols and datars. They included Geeta, daughter-in-law of his niece Rajia, her brothers Vicky and Vijay, father Amrik (petitioner No.1 in CRM-M-38517-2022), mother Simla (petitioner No.2 in CRM-M-38517- 2022) and maternal uncle Lal Chand. They were also accompanied by some youngsters unknown to the complainant, who were armed with pistols and datars. One of the unknown persons fired shot with an intention to kill Surti, hitting him in the middle of his right leg. Second fire shot hit him on the right thigh above knee. Another unknown person gave datar blow, hitting him on the left side of his head. Another datar blow was given by the unknown person hitting on his right hand. As he raised alarm, his brother Raj came forward, who was also given injuries. The assailants fled away on their respective vehicles, firing shots in the air. It was disclosed by complainant Surti that he could recognize the unknown persons, if produced before him.

4. The second version of the FIR was registered based on the statement of one Surender Singh Thakur, who is the father of deceased Vishal Thakur. Said deceased Vishal Thakur was one of the persons, who had gone to the house of Surti with other accused to beat him, but he (Vishal Thakur) got himself injured and ultimately died. It was disclosed by said

CRM-M-32590-2023

Surender Singh Thakur that on 06.09.2020 at about 3-3.30 pm, he received a call from his wife that his son Vishal Thakur had sustained bullet injury and was admitted in Oxford hospital. He along with his family members reached the hospital, where his son died on account of receiving bullet injuries.

5. During investigation, supplementary statement was made on 30.09.2020 by first complainant Surti, wherein he nominated additional accused as Raman Kumar @ Teli, Vishal Thakur (deceased), Chhiba, Sunny, Sidharth, Gurpreet Singh, Gaganpreet Singh and Sanjiv Kumar @ Sajjan. On the basis of disclosure statement made by arrested accused Gurpreet Singh and Sanjeev Kumar @ Sajjan, Jagdev Singh was arraigned an accused, vide DDR No.16 dated 03.10.2022. All these persons were also added as accused in the second version of the FIR vide DDR No.29 dated 19.11.2020.

6. During investigation of the second complaint, it was found that Vishal Thakur son of Surender Singh Thakur was taken by his friend Vicky Kumar (present petitioner) to the in-law's house his sister Geeta regarding a dispute and during the occurrence, a fight took place at the spot, in which Vishal Thakur got bullet injury and succumbed to injuries. Vicky Kumar and his brother Vijay had left Vishal Thakur at Oxford hospital and fled away.

7. On 29.09.2020, another statement was made by Surender Singh Thakur, as per which, he had come to know that his son Vishal Thakur was taken to village Bhandal Bet by his friend Raman Kumar @ Teli, Chhiba, Sidharth, Vicky Kumar, Vijay, Gurpreet Singh, Gaganpreet Singh and Sanjiv Kumar @ Sajjan in two cars, where he got killed. Said Surender

CRM-M-32590-2023

Singh Thakur made another statement on 19.11.2020, as per which he had come to know that his son Vishal Thakur had differences with Vicky Kumar, who in connivance with his brother Vijay and other family members, had taken him to village Bhandal Bet on the pretext of settling some dispute and in order to settle the dispute, Vicky Kumar in connivance with co-accused had killed Vishal Thakur.

8. After concluding investigation, final report under Section 173 Cr.P.C. was submitted *qua* 10 accused, who were arrested from time to time. Supplementary challan was presented against two accused on 31.05.2021. P.O. proceedings were pending against four other accused.

9. It is contended by learned counsel that petitioner has been falsely implicated, inasmuch as injured witnesses namely Surti (original complainant) and Raj besides eye witness Billu, Usha and Sikander did not support the prosecution case during trial and were turned hostile. Attention is further drawn towards the fact that as per the own version of the prosecution, deceased was taken to the hospital by the petitioner. Prosecution case is based on highly unbelievable story of complainant Surender Kumar, who is not an eye witness and whatever statements were made by him before the police are based on hearsay. Learned counsel further contends that co-accused Gurpreet, Lal Chand, Sanjeev Kumar, Kashmiri, Sajan, Rajia, Jagdev Singh, Amrik Singh and Simla have already been allowed bail vide different orders passed by this High Court, copies of which are Annexure P-2 to Annexure P-7. It is further contended that even as per the initial version of the FIR, petitioner is not attributed to have caused any

CRM-M-32590-2023

injury to anyone nor he was alleged to be armed with any weapon. Learned counsel contends that petitioner is in custody for the last 02 years and 10 months, ever since the date of his arrest on 09.11.2020 and that trial may take long time to conclude because after filing of the supplementary challan *qua* two of the co-accused, *de novo* trial is to take place. With these submissions prayer is made for grant of regular bail.

10. I have considered submissions of both the sides and have also perused the record carefully.

11. This is a case, where as per the admitted position, one of the hunters fell prey to co-hunters, inasmuch as Vishal Thakur (deceased) had accompanied the other assailants so as to beat Surti and his family members, but he (Vishal Thakur) himself sustained gunshot injury and died. It is not the case of prosecution or any of the parties that Vishal Thakur died on account of gunshot injury caused by the opposite party i.e., Surti etc. It is not clearly mentioned in the status report filed by the respondent-State that as to which of the co-accused fired shot, hitting Vishal Thakur, resulting in his death. The role of the petitioner is not specified in any manner, so as to *prima facie* make him responsible for causing death of Vishal Thakur. As per prosecution, the petitioner with co-accused had gone to beat Surti etc., but Surti, his brother Raj, wife Billo and two other witnesses, namely Sikander Singh and Usha wife of Raj did not support the prosecution case and turned hostile, as is evident from the copies of the statements made by them during trial, placed on record.

12. Apart from above, co-accused Gurpreet Singh, Sanjeev Kumar

CRM-M-32590-2023

@ Sajjan, Rajia and Lal Chand, Kashmira, Jagdev Singh, Sunny, Amrik Singh and Simla have already been allowed bail by this Court, vide separate orders Annexure P2 to Annexure P7. Petitioner is in custody ever since 09.11.2020 as per the custody certificate placed on record and he is not involved in any other case. Due to filing of the supplementary challan *qua* co-accused, *de novo* trial is to take place because as per the status report, after filing of the same not even a single witness has been examined so far. Petitioner is not attributed with any specific injury either to the complainant party of the first version or to the deceased.

13. Having regard to all the aforesaid facts and circumstances, but without commenting anything further on the merits of the case, this petition is allowed. Petitioner is admitted to bail on his furnishing bail bonds/surety bonds to the satisfaction of the Learned Trial Court/Duty Magistrate concerned, on usual terms and conditions.

September 19, 2023
Neetika Tuteja

(DEEPAK GUPTA)
JUDGE

Whether Speaking/reasoned	Yes/No
Whether Reportable	Yes/No