

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

Date of decision: 24.07.2023

1. CRM-M No.38781 of 2022 (O&M)

Harmeet Singh @ Babbu
State of Punjab

Versus

....Petitioner
....Respondent

2. CRM-M No.40081 of 2022 (O&M)

Jaspreet Singh @ Pitti
State of Punjab

Versus

....Petitioner
....Respondent

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present: Mr. G.S. Ghumman, Advocate
with Mr. P.S. Maan, Advocate
for the petitioner (in CRM-M-38781-2022)

Mr. Gursahib Singh Ghuman, Advocate
for the petitioner (in CRM-M-40081-2022)

Mr. Ayush Sarna, AAG, Punjab.

Mr. Pushpinder Kaushal, Advocate for the complainant.

ARVIND SINGH SANGWAN J.

Prayer in these 2nd petitions is for grant of regular bail to the petitioners namely Harmeet Singh @ Babbu and Jaspreet Singh @ Pitti under Section 439 of the Code of Criminal Procedure (in short 'Cr.P.C.') in FIR No.69 dated 25.03.2019, for offence punishable under Sections 302, 323, 148, 149, 120-B of the Indian Penal Code, 1860 (in short 'IPC') registered at Police Station Samrala, Police District Khanna, District Ludhiana.

Counsel for the petitioners have submitted that the petitioners are in custody for about 04 years and 03 months and only 01

PW has been examined and thereafter, an application under Section 319 Cr.P.C., was filed for summoning 08 additional accused and when the application was allowed, the aforesaid accused filed a petition before this Court and the proceedings before the trial Court is stayed. It is also submitted that certain incorrect facts were noticed in the first order, dismissing the bail application as in the affidavit of the Investigating Officer, a wrong statement was made.

Brief facts of the case as noticed in the previous order dated 23.05.2022, are as under:-

“As per the allegations in the FIR registered at the instance of Ravinder Singh @ Sonu aged about 38 years, it is stated that he is an agriculturist and his mother Ranjit Kaur is present Sarpanch of the village. In the election, Manjit Kaur, previous Sarpanch, wife of Harjinder Singh lost the election and, therefore, Harjinder Singh was nursing a grudge with his family. Apart from this Gurpreet Singh @ Laddi r/o of Gehlewal, Police Station Samrala is not having good terms and for a football tournament, a poster was pasted in the village, however, someone has torn the poster on 24.3.2019. When complainant Ravinder Singh @ Sonu along with his brother Gurpreet Singh @ Gura were coming back from the fields and reached near the shop of Gurjit Singh r/o Seh then Jashanpreet Singh @ Jashan Singh s/o Harvinder Singh @ Gola, Harvinder Singh @ Gola, Nikku, Amna, Binder, Babbu Panch (petitioner-Harmeet Singh @ Babbu), Gurmeet Singh, Vicky, Jagdip Singh @ Dhuchi, Pitti (petitioner-Jaspreet Singh), Gurpreet Singh @ Goda, Harjinder Singh and Simru were present and carrying sharp edged weapons. They attacked on Gurpreet Singh @ Gura with their respective weapons. Harvinder Singh @ Gola, Simru and

Nikku caused head injuries with sharp edged weapons. In the meantime, his mother Ranjit Kaur came there and raised voice and then the accused ran away on the cars and motorcycles. The injured was taken to the hospital, where he died.”

Counsel for the petitioner – Harmeet Singh @ Babbu has argued that though he is named in the FIR, however, he is not having any criminal antecedents as it is incorrectly stated in the aforesaid previous order dated 23.05.2022, declining the bail that he was involved in 10 FIRs whereas the same were pending against the complainant party.

On the last date, a specific direction was issued to the Senior Superintendent of Police, Khanna, to file an affidavit verifying this fact in which it is verified that inadvertently, it was mentioned in the affidavit filed by the SHO, Police Station Samrala, that the petitioner – Harmeet Singh @ Babbu is involved in 10 FIRs whereas the said FIRs were registered against the complainant Ravinder Singh @ Sonu. It is also submitted that the petitioner is not having any criminal antecedents.

It is submitted that even as per the FIR, a specific allegation is that 04 persons namely Jashanpreet, Harvinder Singh @ Golu, Simran and Nikku, had attacked upon the deceased Gurpreet Singh @ Gora, with their respective weapons.

Counsel for the petitioner has placed reliance upon the post-mortem report to submit that all the injuries are incised wound caused by sharp edged weapon whereas the petitioner was carrying a wooden batten and no injury corresponding the same is reflected in the

post-mortem report, a photocopy of which is taken on record as 'Mark X'.

Counsel for the petitioner has also submitted that one of the ground for rejection of the bail application previously was that subsequent to the present FIR, another FIR No.151 dated 11.08.2020 under Sections 302, 120-B, 148, 149 read with Section 25 and 27 of the Arms Act, Police Station Samrala, was registered against 07 persons namely Harjinder Singh @ Jinder, Kulvir Singh @ Pompy, Balwinder Singh @ Binder, Amandeep Singh @ Aman, Bikram Singh @ Vicky, Harwinder Singh @ Gola and Jagdeep Singh @ Dhuchi, for committing the murder of Ravinder Singh @ Sonu (who is complainant in the present FIR).

Counsel for the petitioner has placed on record a judgment dated 16.01.2023, passed by the Additional Sessions Judge, Ludhiana, to submit that even in this FIR, out of 07 accused, 03 persons namely Harjinder Singh @ Jinder, Kulvir Singh @ Pompy and Bikram Singh @ Vicky, were held guilty of committing the crime whereas the other 04 accused were acquitted of the charges. A photocopy of the said judgment dated 16.01.2023, is taken on record as 'Mark A'.

It is also submitted that one of the co-accused namely Bharpur @ Bhura, is also granted the concession of regular bail considering the fact that he was in custody for the last more than 04 years and except PW-1, no other PW has been examined and the right of speedy trial has been defeated.

Counsel for the petitioner has further contended that initially 16 persons were nominated as accused, however, during the

investigation, the police submitted the challan against 08 accused and rest of the 08 accused were summoned under Section 319 Cr.P.C., as noticed above and since this Court has stayed the summoning of the rest of the accused, the trial is not proceeding.

Counsel for the petitioner – Jaspreet Singh @ Pitti, has argued that the custody of the petitioner is more than 04 years and 04 months and even he is not named as a person, who has caused injuries to the deceased and he was also shown to be carrying a wooden batten. Counsel for the petitioner has additionally argued that as per the statement of PW-1 Ranjit Kaur, the mother of the deceased in examination-in-chief, she has identified 04 persons namely Simarjit Singh @ Simru, Gurdeep Singh @ Niku, Jashanpreet Singh @ Jashan and Harwinder Singh @ Gola, by their names, however, she could not identify the other accused i.e. the petitioners by their names.

Counsel for the petitioner has further submitted that this witness has also stated that the 04 persons named above, have directly caused injuries with their respective weapons. It is also contended that after dismissal of the first bail application, a period of about 01 year has passed and the trial is not proceeding as out of 24 PWs, only 01 PW has been examined so far and thereafter, the trial has been stayed when the application under Section 319 Cr.P.C., was allowed.

On the other hand, counsel for the State assisted by counsel for the complainant has, however, opposed the prayer for bail. It is submitted that as per the affidavit of the SHO, Police Station Samrala, that both the petitioners were named in the FIR and the motive was that the poster of football tournament were torn by somebody and the

accused persons thought, it is the deceased, who has done and in order to take revenge, they have attacked the deceased and committed his murder.

It is submitted that as per the post-mortem report, there are 09 injuries, which reflect incised wound on parietal area and occipital region with fracture. It is also stated that subsequent to registration of the FIR, the complainant Ravinder is also murdered by the accused persons as noticed above.

Additionally, counsel for the complainant has argued that the petitioner have committed a serious offence and the case of the petitioner is distinguishable from Bharpur Singh @ Bhura, who has been granted bail by the Co-ordinate Bench of this Court vide order dated 26.05.2023 passed in CRM-M No.30468 of 2022, as his role was distinguishable.

However, counsel for the State as well as counsel for the complainant could not dispute that out of 24 PWs, only the examination-in-chief of the complainant Ranjit Kaur, is conducted and the remaining witnesses are yet to be examined and as per the Custody Certificates, both the petitioners are in custody for more than 04 years and 03 months and they are not involved in any other case.

It is also not disputed that in the subsequent FIR, the petitioners were not named in the FIR, though, the father of one of the petitioner has been named, however, he has been acquitted.

After hearing the counsel for the parties, without commenting anything on merits of the case and in view of the changed circumstances i.e. the petitioners are in custody for the last more than 04

years and 03 months; the stage of the trial i.e. out of 24 PWs, only the examination-in-chief of one of the PW has been recorded; in a petition filed before this Court, challenging the summoning of 08 additional accused, the proceedings of the trial are stayed; even in the statement of PW-1, 04 co-accused are identified by name whereas the petitioners are not identified by their names, a matter which will be decided at the time of final disposal of the trial and also in view of the fact that one of co-accused of the petitioner has been subsequently granted the concession of regular bail on account of his long custody and the conclusion of the trial will take some time, both these petitions are allowed and the petitioners namely Harmeet Singh @ Babbu and Jaspreet Singh @ Pitti, are directed to be released on bail subject to their furnishing bail/surety bonds to the satisfaction of the trial Court/Illaqa Magistrate/Duty Magistrate.

However, it will be open for the prosecution to apply for cancellation of bail of the petitioners, in case they are found involved in any other case or misusing the concession of bail, in any manner.

A photocopy of this order be placed on the file of other connected case.

(ARVIND SINGH SANGWAN)
JUDGE

24.07.2023

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Whether speaking/reasoned:

Yes/No

Whether reportable:

Yes/No