

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

CRM-M-38057-2020 (O&M)

Date of Decision: 12.1.2023

Jasbir Singh @ Jassa

....Petitioner

VERSUS

State of Punjab

....Respondent

CORAM:- HON'BLE MR. JUSTICE KARAMJIT SINGH

Present: Mr. Gagandeep Singh Simble, Advocate
for the petitioner.

Ms. Kanica Sachdeva, AAG, Punjab

KARAMJIT SINGH, J.

Prayer in the present petition under Section 439 of Code of Criminal Procedure is for grant of regular bail to the petitioner in case FIR No.25 dated 11.2.2020 registered for the offences punishable under Sections 302, 307, 379, 411, 34, 212, 216, 148, 149, 120-B IPC and Sections 25-1-A, 54, 59 of Arms Act and Section 17, 18 of Unlawful Activities of Prevention Act at Police Station Dhariwal, District Gurdaspur.

Counsel for the petitioner *inter alia* contends that FIR in this case was registered against unknown persons who committed murder of Ashok Kumar son of the complainant and also caused firearm injuries to Hitesh Mahajan alias Honey Mahajan on 10.2.2020. He further submits that the petitioner is in custody for the last 2 years and 8 months and only allegations against him are that he watched movements of injured-Hitesh Mahajan @ Honey Mahajan and reported the same to the main accused who actually participated in the aforesaid occurrence. He further submits that

during the trial, the complainant while appearing in the witness box, has not supported the case of the prosecution and that it will take considerable time for the trial to conclude and that during the investigation, no incriminating article or weapon was recovered from the possession of the petitioner. So, prayer is made that the petitioner be released on regular bail.

Present petition is contested by the State counsel who submits that the present case is relating to murder of Ashok Kumar son of the complainant and one Hitesh Mahajan alias Honey Mahajan also sustained firearm injuries at the hands of the assailants and that during the investigation, it was revealed that the petitioner used to watch the movements of Hitesh Mahajan alias Honey Mahajan and other victim and then to report about the same to the main accused who killed Ashok Kumar and also injured Hitesh Mahajan alias Honey Mahajan at the time of the occurrence. However, State counsel has not disputed the fact that the custody of the petitioner comes out to be more than 2 years and 8 months and that the trial is going on and that during the investigation, no weapon or incriminating article was recovered at the instance of the petitioner.

I have considered the submissions made by the counsel for the parties.

FIR in this case was registered against two unknown persons who came in front of the shop of the complainant and shot dead his son Ashok Kumar and they also caused firearm injuries to Hitesh Mahajan alias Honey Mahajan who was sitting in *Ahata* adjoining to the said shop. The petitioner was arrested and as per custody certificate, his custody period comes out to be more than 2 years and 8 months and admittedly, during the investigation of the case, no incriminating article or firearm was recovered

from his possession. As has been submitted by the State counsel, only allegations against the petitioner are that he did *recce* and watched movements of both the victims and then reported about the same to the main accused who committed murder of Ashok Kumar and also injured Hitesh Mahajan @ Honey Mahajan. This fact has also been stated by the State in its reply filed by way of affidavit of Sub Inspector Manjit Singh, SHO, Police Station Dhariwal, District Gurdaspur. So, apparently, only allegations against the petitioner are that he facilitated the assailants in killing Ashok Kumar and injuring Hitesh Mahajan alias Honey Mahajan by watching their movements and then providing information regarding the same to the main assailants. Complicity of the petitioner will be unfolded only during the trial. It will take considerable time for conclusion of trial. Thus, no useful purpose is going to be served by keeping the petitioner in custody for any further period.

In view of the above, without commenting on the merits of the case, the present petition is allowed and the petitioner is ordered to be released on bail subject to his furnishing bail bonds/surety bonds to the satisfaction of the trial Court/Chief Judicial Magistrate/Duty Magistrate concerned.

(KARAMJIT SINGH)
JUDGE

January 12, 2023

Paritosh Kumar

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No