

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

206

CRM M-39839 of 2023
Date of Decision: 06.10.2023

Pancham Noor Singh

...Petitioner

Vs.

State of Punjab

...Respondent

CORAM : HON'BLE MR. JUSTICE N.S.SHEKHAWAT

Present : Mr. Ankur Bansal, Advocate, for the petitioner.

Mr. Amish Sharma, AAG, Punjab.

N.S.SHEKHAWAT, J. (Oral)

1. Apprehending the imminent arrest, the petitioner has filed the present petition under Section 438 of the Cr.P.C. with a prayer to grant pre-arrest bail to him in case FIR No.87 dated 21.06.2023 registered under Sections 307, 353 and 186 of IPC and Section 25 of Arms Act at Police Station Division No. 7, District Jalandhar.

2. The FIR in the present case was got registered by ASI Sohan Lal, who stated that on 21.06.2023, he alongwith other police officials was present at Punjab Avenue, Jalandhar, in connection with checking of bad elements, a secret informer came and informed the SHO of police station that Yuvraj Thakur, accused in FIR No. 69/23, was coming towards Urban Estate from Jamsher Dairy and was carrying illicit weapons. If a barricade was set up, Yuvraj Thakur could be apprehended with the illegal weapons. On this, the SHO

alongwith other police officials had set up a barricade and a clean shaven person was seen coming from the side of Jamsheer Dairy. On finding the police party, he fired at police party all of a sudden. However, the police party was also in alert mode and the SHO of the police station fired in the air to save the police party and asked him to stop firing, but he did not stop. On this, the SHO of the police station fired a gun shot on his feet, which hit him on his right leg. He was apprehended by the police and one country made pistol and five live cartridges were recovered from him and two empty cartridges were also recovered from there. The SHO asked his name and address and he told the same to be Yuvraj Thakur son of Anil Thakur resident of H.No. 371, Housing Board Colony, LIG Flat Urban Estate-1, Jalandhar. He was taken to Civil Hospital Jalandhar in injured condition and by firing illegally on police party, Yuvraj Thakur had committed an offence under Sections 307, 353 and 186 IPC and Section 25 of the Arms Act.

3. During the course of investigation, Yuvraj Thakur, co-accused suffered a disclosure statement and stated that the country made pistol, which was recovered from him and which was used in the commission of the crime, was taken by him from his friend Pancham Noor Singh, the petitioner/accused, who had further bought this country made pistol from his friends Karan T.C. and Amit Subhana. Accordingly, on the basis of the disclosure statement of

co-accused Yuvraj Thakur, the petitioner was nominated as an accused in the present case and a DDR No. 18 dated 23.06.2023 was recorded in this regard.

4. Learned counsel for the petitioner contended that the petitioner had been falsely involved in the present case. He was neither named in the FIR nor had any concern with the alleged occurrence. He further contended that the petitioner was earlier granted the concession of regular bail by this Court in CRM M-45614 of 2022 and this Court had released the petitioner on regular bail by imposing stringent conditions on him. The petitioner was being harassed by ASI Sohan Lal, Police Station Division No. 7, Jalandhar and implicated the petitioner in the false case, just to ensure the cancellation of his bail. Learned counsel further contended that the petitioner was neither present at the spot nor had any connection with Yuvraj Thakur, co-accused nor he supplied any weapon to him and even the tower location of his mobile phone would clearly show that he was not present at the place of occurrence. Apart from that, Karanveer Singh, who was also involved in the present case on the basis of the disclosure statement made by Yuvraj Thakur, had been granted the concession of anticipatory bail by the Court of Additional Sessions Judge, Jalandhar vide order dated 29.07.2023 (Annexure P-9).

4. On the other hand, learned State counsel vehemently opposed the prayer made by the learned counsel for the petitioner on the ground that the police had collected sufficient evident regarding the involvement of the petitioner in the alleged crime. He further contended that the petitioner was granted the concession of bail by this Court on 01.02.2023 in case FIR No. 56 dated 15.04.2022 under Sections 307, 148, 149, 120-B, 109, 212 and 216 of IPC and Sections 25/27-54-59 of Arms Act registered at Police Station Division No. 2, Jalandhar and stringent conditions of bail were imposed on him. Still, he was involved in the criminal activities. Apart from that, the petitioner had supplied the pistol, which was used by Yuvraj Thakur in attacking the police party in the present case. Still further, following FIR's were also registered against the present petitioner:-

(i) FIR No. 77 dated 14.05.2016 under Sections 323/324/452/427/148/149 IPC 25/27-54-59 Arms Act Police Station Division No. 3 Commissionerate Jalandhar.

(ii) FIR No. 42 dated 05.11.2015 under Sections 323/307/34 IPC 25/54/59 Arms Act Police Station Division No. 3 Commissionerate Jalandhar.

(iii) FIR No. 93 dated 12.06.2016 under Sections 25-54-59 Arms Act Police Station Division No. 3 Commissionerate Jalandhar.

- (iv) *FIR No. 90 dated 12.07.2017 under Sections 365/368/323/506/148/149 IPC and 25-54-59 Arms Act Police Station Division No. 6 Commissionerate Jalandhar.*
- (v) *FIR No. 205 dated 29.12.2017 under Sections 323/307, 148, 149 IPC and 25-54-59 Arms Act Police Station Sadar Hoshiarpur.*
- (vi) *FIR No. 120 dated 15.08.2014 under Sections 323, 324, 427, 34 IPC added Section 326 IPC Police Station Division No. 7 Commissionerate Jalandhar.*
- (vii) *FIR No. 137 dated 08.08.2019 under Sections 25-54-59 Arms Act Police Station Division Bhogpur Jalandhar.*
- (viii) *FIR No. 147 dated 05.11.2019 under Sections 336/201 IPC and 25-54-59 Arms Act and 67 IT Act Police Station Division No. 7 Commissionerate Jalandhar.*
- (ix) *FIR No. 46 dated 30.03.2021 under Sections 323, 341, 506, 148, 149 IPC Police Station Division No. 6 Commissionerate Jalandhar.*
- (x) *FIR No. 56 dated 15.04.2022 under Sections 307, 148, 149 IPC and 25-54-59 Arms Act Police Station Division No. 2 Commissionerate Jalandhar.*
- (xi) *FIR No. 69 dated 12.05.2023 under Sections 323, 324, 307, 148, 149, 160 and 506 IPC added Section 489 (A),*

*(B), (C), (D) IPC and 25 of Arms Act Police Station
Division No. 7 Commissionerate Jalandhar.*

5. I have heard learned counsel for the parties and perused the record.

6. The FIR in the present case was registered against Yuvraj Thakur initially, who had fired a shot on a police party by using the country made pistol and the weapon was recovered from him. Even during the course of investigation, he made a statement that weapon of offence was taken by him from his friend Pancham Noor Singh, the present petitioner. Apart from that, one FIR No. 56 dated 15.04.2022 under Sections 307, 148, 149, 120-B, 109, 212 and 216 of IPC and Sections 25/27-54-59 of Arms Act, Police Station Division No. 2, Jalandhar, was also registered against the petitioner and while granting the concession of bail to the present petitioner in CRM M-M-45614 of 2022, on 01.02.2023, a Co-ordinate Bench of this Court had imposed following conditions on the present petitioner:-

“18. During the trial's pendency, if the petitioner repeats or commits any offence where the sentence prescribed is more than seven years or violates any condition as stipulated in this order, it shall always be permissible to the respondent to apply for cancellation of this bail. It shall further be open for any investigating agency to bring it to the notice of the Court seized of the subsequent application that the accused was earlier

cautioned not to indulge in criminal activities. Otherwise, the bail bonds shall remain in force throughout the trial and after that in Section 437-A of the Cr.P.C., if not canceled due to non-appearance or breach of conditions.

19. *In return for the protection from further incarceration at this stage, the Court believes that the accused shall also reciprocate through desirable behavior. **It is clarified that in case the petitioner does not mend his ways and repeats the offence or indulge in criminal behaviour, then in all future matters, the concerned courts shall keep it as a factor that this court had afforded a final opportunity to the petitioner to reform and live a normal life but did not mend his ways.***

20. *The conditions mentioned above imposed by this court are to endeavour that the accused does not repeat the offence and to ensure the safety of the witnesses, victim, and their families. In Mohammed Zubair v. State of NCT of Delhi, Writ Petition (Criminal) No 279 of 2022, Para 29, decided on July 20, 2022, A Three-Judge bench of Hon'ble Supreme Court holds that "The bail conditions imposed by the Court must not only have a nexus to the purpose that they seek to serve but must also be proportional to the purpose of imposing them. The courts while imposing bail conditions must balance the liberty of the accused and the necessity of a fair trial. While doing so, conditions that would result in the deprivation of rights and liberties must be eschewed."*

7. Thus, it is apparent that this Court had granted an opportunity to the petitioner to mend the ways and not to repeat the

offences in future. However, within a period of four months, again the petitioner has been found to be involved in the present case. Apart from that, in the past also several criminal cases of similar nature were registered against the present petitioner and he does not deserve the concession of anticipatory bail under Section 438 Cr.P.C.

8. In view of the above discussion, the present petition is ordered to be dismissed.

06.10.2023

(N.S.SHEKHAWAT)

amit rana

JUDGE

Whether reasoned/speaking

:

Yes/No

Whether reportable

:

Yes/No