

CRM-M-39989-2023

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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CRM-M-39989-2023

Date of decision: 12.10.2023

Binder Singh

....Petitioner

V/s

State of Punjab

....Respondent

CORAM: HON'BLE MR. JUSTICE ARUN MONGA

Present: Mr. Amaninder Singh Sekhon, Advocate for the petitioner.
Mr. Mohit Thakur, AAG Punjab.

ARUN MONGA, J. (Oral)

Status report by way of affidavit dated 09.10.2023 of the Deputy Superintendent of Police, District Faridkot, submitted by the learned State counsel in the Court, is taken on record.

Following the denial of bail by learned trial court, the petitioner is now before this Court seeking his release as an undertrial in a case with FIR No. 16 dated 14.01.2023, registered under Section 302, 341, 307, 324, 323, 148 and 149 of the Indian Penal Code, 1860 (for short 'IPC') and Sections 25 and 27 of the Arms Act, at the Sadar City Faridkot, Police Station in Faridkot.

2. According to the prosecution's account, the complainant, Gurkirtan Singh, alleged that the petitioner, accompanied by co-accused, namely Ritik Thakur, Nikhil Kataria, Vikas Kumar, Sanga, Sonu Bekariwala, and Sandeep Kataria, while armed with various weapons, waylaid him, his brother Inderjit Singh, and brother-in-law Paramjit Singh, on account of previous enmity. Thereafter, the petitioner and co-accused assaulted the complainant and his companions with the intention to kill them. Multiple injuries were inflicted on the person of the complainant and his companions by the aforementioned accused. They were admitted to the hospital due to injuries sustained during the occurrence.

However, the brother-in-law of the complainant, namely Paramjit Singh, was declared dead. Consequently, an FIR was registered based on the complainant's statement. It is alleged that the petitioner raised an exhortation (lalkara), facilitating his co-accused to cause injuries to the complainant party. The petitioner, Binder Singh, was taken into custody on January 15, 2023, and has remained incarcerated since then. During the investigation, the police also recorded a cross-version vide DDR No.42 dated 21.01.2023, registered under Sections 307, 324, read with Section 34 IPC against accused Gurkirtan Singh @ Inderjit Singh and Pardeep Kumar @ Kau.

3. Referring to the statement of the complainant, learned counsel for the petitioner contends that the petitioner has been implicated due to inadvertence and is a mistaken case of identity. The one he had named as the accused who raised lalkara is accused Binder Bua, and instead of him being a namesake, the petitioner, i.e., Binder Singh, has been implicated. He submits that the petitioner was not present at the spot at the time of the alleged incident, and the question of 'lalkara' as alleged by the prosecution does not arise.

3.1 Furthermore, it is submitted that the FIR was registered based on a concocted version provided by the complainant. The petitioner is not connected with the alleged offense. Further, he submits that except for lalkara, no overt act is attributed to the petitioner.

3.2 The petitioner's counsel also contends that there is no need for further custodial interrogation of the petitioner, as there is nothing left to be recovered from him. Moreover, there is no indication that the petitioner would tamper with evidence or influence prosecution witnesses.

3.3 He further submits that the petitioner has been in custody since January 15, 2023, and the challan has already been presented. The conclusion of

the trial will take a long time; thus, keeping the petitioner behind bars would not serve any useful purpose.

4. On the contrary, the learned State counsel strenuously opposes the petition, expressing concerns about the possibility of the petitioner fleeing from trial proceedings if granted bail. He submits that the allegations against the petitioner are serious as petitioner has actively participated in the commission of crime. Keeping in view the gravity of offence, petitioner is not entitled to concession of bail. Moreover, petitioner is involved in another case i.e. FIR No.288 dated 18.08.2023 registered under Section 42, 52-A Jail Act at Police Station City Faridkot.

5. I have heard the rival arguments and reviewed the case file.

6. In response to a query from the Court, it transpires that the investigation against the petitioner has been completed, and charges were framed on July 27, 2023. At this stage, the allegations against the petitioner are subject to trial. Of the twenty five prosecution witnesses, none has been examined so far. The trial's progress has been slow, and it is anticipated to take a considerable amount of time. Bail serves the purpose of allowing an accused to remain free until their guilt or innocence is determined. In contrast, the petitioner has been in detention since January 15, 2023, for more than nine months.

7. The petitioner's continued preventive custody is based on an unsubstantiated suspicion that he might tamper with evidence or influence witnesses.

8. Petitioner is stated to be unmarried, 26 years old having responsibility of his old aged parents. As a responsible family man and a stable residence, the petitioner is unlikely to pose a flight risk or evade trial proceedings.

9. Considering the overall scenario, without commenting on merits of the case, the instant petition is allowed. I am of the view that no useful purpose would be served to keep petitioner in further preventive custody.
10. 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.
11. In case, petitioner is found involved or gets involved in any offence while on bail, the prosecution shall be at liberty to seek cancellation of his bail in the instant case.
12. It is made clear that any observations and/or submissions noted hereinabove shall not have any effect on merits the case as the same are for the limited purpose of bail hearing alone and learned trial Court shall proceed without being influenced with this order.
13. Pending application(s), if any, shall also stand disposed of.

(ARUN MONGA)
JUDGE

October 12, 2023
Ajay

Whether speaking/reasoned:	Yes/No
Whether reportable:	Yes/No