

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

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CRM-M-41480-2023 (O&M)

Date of Decision: 28.08.2023

JASDEEP SINGH @ DEEP SINGH

... Petitioner

Versus

STATE OF PUNJAB

... Respondent

CORAM: HON'BLE MR. JUSTICE HARNARESH SINGH GILL

Present: Mr. RS Rai, Senior Advocate with
Mr. Saurabh Sharma, Advocate
for the petitioner.

Mr. Gurdarshan Singh Sidhu, AAG, Punjab.

HARNARESH SINGH GILL, J.(Oral)

Through this petition, the petitioner seeks regular bail in Cross Case Rapat/DDR No.29 dated 18.11.2020, registered under Sections 307, 34 IPC; Sections 25 and 27 of the Arms Act, at Police Station Sarhali, District Tarn Tarn, in FIR No.262 dated 23.10.2020, under Sections 302, 307, 447, 511, 148, 149 IPC and Sections 25 and 27 of the Arms Act, registered as Police Station Sarhali, District Tarn Taran.

At the outset, learned Senior counsel for the petitioner submits that due to inadvertence, in the memo of parties, it has been mentioned that the petitioner was declared proclaimed offender in FIR No.262 dated 23.10.2020, whereas he was declared as a proclaimed offender in cross case Rapat/DDR No.29 dated 18.11.2020.

Learned Senior counsel for the petitioner submits that FIR in question was registered at the instance of the petitioner against the

accused persons for committing the murder of his brother-in-law; that the alleged occurrence took place on 23.10.2020, whereas the petitioner has been involved in the cross-version case recorded on 18.11.2020 i.e. after about 25 days; that the MLR, on the basis of which cross-version was recorded, is dated 04.11.2020 and that, though, a fire arm injury on the chest of the injured, attracting Section 307 IPC has been attributed to the petitioner, yet the fact remains that the petitioner has been in custody since 30.04.2023. He further submits that in a civil suit pending between the parties, *sanad taksim* has been issued in favour of the petitioner and Amrik Singh, vide judgment dated 16.09.2020 and that apprehending attack, the petitioner has moved an application dated 22.10.2020 to the DIG, Ferozepur Range (Annexure P-6). Still further, it is submitted that out of total 28 prosecution witnesses, none has been examined so far.

Per contra, while opposing the prayer for grant of regular bail to the petitioner, learned State counsel does not dispute the custody period of the petitioner. He, however, submits that the petitioner had taken the plea of right of private self-defence and once the said plea is taken, the onus is on the petitioner to prove that he has not exceeded the said right. He further submits that a specific fire arm injury on the chest of the injured, attracting Section 307 IPC has been attributed to the petitioner, which was declared dangerous to life and that the petitioner was declared as a proclaimed offender in the above noted Rapat/DDR on 16.12.2022 and thereafter, was arrested on 30.04.2023. Still further, it is submitted that the material witnesses are yet to be examined and thus, the petitioner be not granted the concession of regular bail.

I have heard the learned counsel for the parties.

Petitioner has been indicted in the cross-case recorded on 18.11.2020 i.e. after about 25 days of the occurrence. The MLR on the basis of which Section 307 IPC is added is dated 04.11.2020. Though an injury on the chest of the injured has been attributed to the petitioner, yet the fact remains that the petitioner has been in custody since 30.04.2023. As per the learned Senior counsel for the petitioner, in a civil suit pending between the parties, *sanad taksim* has already been issued in favour of the petitioner and Amrik Singh, vide judgment dated 16.09.2020. Prosecution evidence is yet to commence. In such circumstances, the trial of the case would take a long time to conclude. Therefore, no useful purpose would be served by keeping the petitioner behind the bars.

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

28.08.2023

Aman Jain

(HARNARESH SINGH GILL)
JUDGE

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