

CRM-M-44001-2020 (O&M)

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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-44001-2020 (O&M)

Date of decision: July 14, 2023

Lovepreet Singh @ Love

....Petitioner

versus

State of Punjab

....Respondent

CORAM: HON'BLE MR. JUSTICE ARUN MONGA**Present:-** Ms. Sukhpreet Kaur Grewal, Advocate for petitioner.

Mr. Mohit Thakur, AAG Punjab.

ARUN MONGA, J. (ORAL)**CRM-28366-2023**

For the reasons stated in application, same is allowed subject to all just exceptions. Compact Disc (CD) as well as its transcript contained at Annexure P-3 is taken on record.

Main case (O&M)

Petitioner seeks bail in criminal case bearing FIR No.25 dated 11.02.2020, registered under Sections 302, 307, 473, 411, 148 read with Section 149 of the Indian Penal Code, 1860 (for short 'IPC') and Section 25 of Arms Act, 1959, at Police Station Dhariwal, District Gurdaspur.

2. Per prosecution version, on 11.02.2020, Jagdish Raj son of Munshi Ram, a resident of Golden Avenue, Ward No.1, Dadwan Road, Dhariwal, suffered a statement before the police that on 10.02.2020, at about 6:30 p.m., he alongwith his son Ashok Kumar and servant Vishal was present at their grocery shop situated on Dadwan Road, Golden Avenue. When he came out of his shop, he saw a car of white colour parked a little ahead of his shop and meanwhile two youths with muffled faces came out of that car and started firing from their respective pistols towards his son Ashok Kumar. His son Ashok Kumar suffered firearm injuries on his head and other parts of his body. Resultantly, he fell down and blood started oozing from his injuries. The assailants also

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fired from their pistols towards Hitesh Mahajan @ Honey, who was present in the *Ahata* (liquor vend) situated on the eastern side of their shop. Hitesh Mahajan @ Honey also suffered injuries on his legs and other parts of his body. Said Hitesh Mahajan alias Honey also fell down and soon was he in a pool of blood. Complainant and his servant Vishal raised noise, whereupon the assailants alongwith their respective weapons decamped in their car. Both Ashok Kumar and Hitesh Mahajan @ Honey were removed to Civil Hospital, Gurdaspur, where the doctors declared Ashok Kumar brought dead whereas Hitesh Mahajan @ Honey was given first aid and he was referred to Amritsar. An FIR was registered in this regard. Petitioner was arrested on 05.04.2020.

3. Learned counsel for petitioner submits that petitioner was not named in the FIR. He was implicated in this case on the basis of his own disclosure statement dated 07.04.2020, which has no evidentiary value. Weapon allegedly used in the present case was recovered in another FIR No.25 dated 27.03.2020. Thus no recovery of weapon has been made in the present case.

3.1. Learned counsel for petitioner relies heavily on one CD as well as its transcript (Annexure P-3) containing interview of injured/victim Hitesh Kumar, who appeared in the witness box as PW-4, to contend that PW-4 minced no words in asserting therein that he never saw the assailants in the present case. She would further urge that in fact, it is a case of blind murder and petitioner has been roped in with ulterior motive after two months of the occurrence. There is no legal evidence against petitioner.

4. On the other hand, learned State counsel, on instructions from ASI Gurvinder Singh opposes the bail petition. He submits that petitioner has committed a serious offence. Investigation is complete and finding strong *prima facie* case against petitioner, learned trial Court has also framed charges in this case. He also submits that petitioner is a habitual offender and there are 7 more criminal cases against him. Petitioner is likely to commit serious offences if released on bail, contends the learned State counsel.

5. I have heard the rival contentions of learned counsels for the parties and have gone through the case file.

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6. Looking at the nature of offence and antecedents of the petitioner, possibility of petitioner influencing/ intimidating witnesses cannot be ruled out, at this stage, in case he is let out on bail. In course of hearing, on a Court query, it transpires that there are total 41 prosecution witnesses, out of which, 6 are private/independent witnesses. Only 5 have been examined so far and one private witness is yet to be examined. Learned counsel for the petitioner submits that some of the private witnesses have not supported prosecution version.
7. Be that as it may, instant bail petition is dismissed with liberty to the petitioner to file fresh one before learned Court below after the testimony of private witnesses concludes.
8. It is made clear that any observations and/or submissions noted hereinabove shall not have any effect on merits of the case as the same are for the limited purpose of hearing the instant bail petition alone and learned trial Court shall proceed without being influenced with this order.
9. Pending application(s), if any, shall also stand disposed of.

(ARUN MONGA)
JUDGE

July 14, 2023

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Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No