

CRM-M-42581-2023

2023:PHHC:159868

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(220)

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-42581-2023

Date of Decision: 13.12.2023

MOHIT

... Petitioner

Versus

STATE OF PUNJAB

...Respondent

CORAM: HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present: Mr. Arnav Sood, Advocate
for the petitioner.

Mr. Harkanwar Jeet Singh, Asstt. A.G., Punjab.

JASJIT SINGH BEDI, J.

The prayer in the present petition under Section 439 Cr.P.C. is for the grant of regular bail in case bearing FIR No.0007 dated 06.05.2023 registered under Sections 467, 468, 471, 120-B IPC, Section 25-54-59 of Arms Act, 1959, Section 12 of the Passports Act, 1967, Section 25(7)-54-59 of Arms Act, 1959 and Section 21-61-85 of NDPS Act (added later on) at Police Station State Special Operations Cell, SAS Nagar, District Intelligence Wing (CID).

2. The present FIR came to be registered on the statement of SI Manpreet Singh and the same reads as under:-

“Copy of ruga, SHO, SSOC, Mohali, Jai Hind. Today I SI was present in the police station. Then around 4 PM a secret informer came and gave information that the hardcore criminals of Punjab after committing crime and after coming out on Parole and on bail from the jails and after absenting from the courts are fleeing to different countries

through travel agents after preparing fake documents, hiding their identity and by preparing false passports. They are gangsters and smugglers Gurjant Singh @ Bholu son of Satwinder Singh resident of village Haweliyan, Tarn Taran, Rachpal Singh @ Daana son of Dalbir Singh resident of village Bhuchad Khurd, Tarn Taran, Gangster Jaswinder Singh @ Khatu Khatu son of Ranjit Singh resident of Mangli Khas, Ludhiana, Lovepreet Singh @ Navi Pehalwan son of Amrik Singh resident of Village Sainpur, Gurdaspur, Gurpreet Singh @ Gopi son of Prakash Singh resident of village Birowal, Nawanshahar and Sukhpreet Singh @ Lovely son of Pratap Singh resident of village Rikhiyan, Gurdaspur have filed to different countries. We can come to know that Mohit @ Rikki son of Vishwash Nath resident of village Jatuwal, Gurdaspur, Malkiat Singh son of Makhan Singh resident of village Bhagtana Boharwala, Gurdaspur and Gopi resident of Village Gotan, Gurdaspur and other unknown persons transfer the ammunition and money on the asking of the gangsters confined in the jails. They are trying to commit some big crime on the asking of the gangsters. They all can commit any crime and can flee to foreign countries after preparing false passports. If raid is conducted then they can be apprehended with ammunition in heavy quantity and a big crime can be stopped from being committed. The information is correct and reliable. That Gurjant Singh @ Bholu son of Satwinder Singh resident of village Haweliyan, Tarn Taran, Rachpal Singh @ Daana son of Dalbir Singh resident of village Bhuchad Khurd, Tarn Taran, Gangster Jaswinder Singh @ Khatu son of Ranjit Singh resident of village Mangli Khas, Ludhiana, Lovepreet Singh @ Navi Pehalwan son of Amrik Singh resident of Village Sainpur, Gurdaspur, Gurpreet Singh @ Gopi son of Prakash Singh resident of village Birowal, Nawanshar and Sukhpreet Singh @ Lovely son of Pratap Singh resident of village Rikhiyan, Gurdaspur, Mohit @ Rikki son of

Vishwash Nath resident of village Jatuwal, Gurdaspur, Malkiat Singh son of Makhan Singh resident of village Bhagtana Boharwala, Gurdaspur and Gopi resident of Village Gotan, Gurdaspur and other unknown persons are part of a criminal gang and by doing so they have committed offence U/s 467, 468, 471, 120-B IPC, 25-54-59 of Arms Act and Section 12 of Passports Act, 1967. Ruqa has been written against Gurjant Singh @ Bholu son of Satwinder Singh resident of village Haweliyan, Tarn Taran, Rachpal Singh Daana son of Dalbir Singh resident of village Bhuchad Khurd, Tarn Taran, Gangster Jaswinder Singh @ Khatu son of Ranjit Singh resident of village Mangli Khas, Ludhiana, Lovepreet Singh @ Navi Pehalwan son of Amrik Singh resident of Village Sainpur, Gurdaspur, Gurpreet Singh @ Gopi son of Prakash Singh resident of village Birowal, Nawanshar and Sukhpreet Singh @ Lovely son of Pratap Singh resident of village Rikhiyan, Gurdaspur, Mohit @ Rikki Vishwash Nath resident of village Jatuwal, Gurdaspur, Malkiat Singh son of Makhan Singh resident of village Bhagtana Boharwala, Gurdaspur and Gopi resident of Village Gotan, Gurdaspur and other unknown persons and has been sent to the police station to SHO to register case through Constable Balwinder Singh 2984/INT. Case be registered and case number be sent. Control Room be informed and special reports be prepared. I SI is going to conduct the investigation. PS SSOC, Mohali: 4:45 PM Sd/- Sub Inspector Mnapreet Singh 760/INT. Investigating room, PS SSOC, Tohali, SAS Nagar Date 06.05.2023."

3. During the course of investigation, the petitioner and his co-accused Malkit Singh were arrested on 07.05.2023. A 9 MM pistol make 19 Gen4 AUSTRIA 9*19 along with 2 live cartridges were recovered from the petitioner while 20 gram heroin were recovered from the accused Malkit

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Singh. Accordingly, Sections 21-61-85 of NDPS Act were added in the array of offences vide Case Diary No.02 dated 07.05.2023.

It transpired that when the petitioner and Malkit Singh were apprehended, they were going to supply intoxicating powder to one Gurpreet Singh alias Goga and the pistol to an unknown person who was the friend of Bhoota Khan alias Bhagga. Accordingly, Gurpreet Singh alias Gora and Bhoota Khan alias Bhagga were nominated as accused in the present case on 11.05.2023. Subsequently, on the basis of their disclosure statements, Omkar Singh and Prabhjot Singh who purportedly prepared forged passports for many gangsters were nominated as accused in the present case on 18.05.2023. On 22.05.2023, accused Bhoota Khan alias Bhagga was arrested. Accused Omkar Singh and Prabhjot Singh were arrested on 24.05.2023 on the basis of production warrants. Accused Gurpreet Singh alias Gora was arrested on 20.06.2023 in the present case and his friend Rohit Singh was nominated as accused in the present case and arrested on the same day vide Case Diary No.14 dated 19.06.2023. Gurpreet Singh alias Gora and Rohit Singh got recovered one pistol make 30 bore along with 5 cartridges and one pistol make 30 bore along with 5 cartridges each.

On 26.06.2023, accused Gurpreet Singh alias Gora during his interrogation revealed that they had received 4 pistols along with heroin. 02 of them along with 60 cartridges had been given to the companions of Sukhmeetpal Singh alias Bhikhariwal on the asking of one Miyan, a Pakistani national. Based on the aforementioned statement of Gurpreet Singh alias Gora, Sukhmeetpal Singh alias Bhikhariwal was nominated as accused in the present case and was arrested on 03.07.2023. He admitted that two

pistols along with 60 cartridges had been handed over to his companions by Gurpreet Singh alias Gora on the asking of Miyan. The cartridges of that pistol had been given to some unknown person by Taranjot Singh alias Tanna. During interrogation, Taranjot Singh alias Tanna revealed that the said two pistols and 60 cartridges were given to Sukhmeetpal Singh alias Bhikhariwal to unknown persons after taking from him. Based on the interrogation of Sukhmeetpal Singh alias Bhikhariwal, Taranjot Singh alias Tanna was nominated as accused in the present case on 04.07.2023 and was arrested on production warrants from Tihar Jail, Delhi. On the basis of the interrogation of Taranjot Singh alias Tanna, Sukhraj Singh alias Sukha was nominated as accused in the present case and arrested on 15.07.2023. On 19.07.2023, he got recovered 01 pistol of 32 bore along with 5 cartridges.

The report under Section 173 Cr.P.C. was presented against the petitioner and accused Malkit Singh whereas a supplementary report was submitted against Gurpreet Singh alias Gora, Rohit Singh, Sukhmeetpal Singh, Taranjot Singh alias Tanna and Sukhraj Singh.

Accused Gurjant Singh alias Bholu, Rachpal Singh alias Dana alias Jaswinder Singh alias Khatu, Lovepreet Singh alias Navi, Gurpreet Singh alias Gopi, Sukhpreet Singh alias Lovely and Gopi could not be arrested and therefore, they were kept in Column No.2.

4. The learned counsel for the petitioner contends that the petitioner has been falsely implicated in the present case. He is a young boy whose family members had retired from the Indian Army and his brother had also joined the Indian Army. The petitioner himself wished to join the Army for which his physical test was to take place on 10.09.2022. The recovery of

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a 9 MM pistol and 02 live cartridges had been planted upon the petitioner. The entire case was otherwise based on the confessional statements of co-accused recorded during the course of investigation while they were in custody. Therefore, the said statements had no evidentiary value in the eyes of law. As the petitioner was a first-time offender, in custody since 07.05.2023 and none of the 08 prosecution witnesses had been examined so far, he was entitled to the concession of bail.

5. A short reply dated 12.12.2023 by way of an affidavit of Gurcharan Singh, PPS, Deputy Superintendent of Police, SSOC, District SAS Nagar has been filed on behalf of the State by the learned counsel for the State. The same is taken on record. While referring to the reply, he contends that the allegations against the petitioner were serious and heinous in nature which stand established during the course of investigation leading to the preparation and presentation of the report under Section 173(2) Cr.P.C. From the mobile phone of the petitioner, the number of some persons from Pakistan had been found. All these facts *prima facie* showed that the petitioner was helping and is a member of an organized crime syndicate because of which the offence under Section 25(7) of the Arms Act had been added. The activities of the gangsters were on the rise in the State of Punjab which needed to be curbed with strong hands and therefore, the petitioner was not entitled to the concession of bail.

6. I have heard the learned counsel for the parties.

7. The veracity of the prosecution case against the petitioner and his co-accused shall be adjudicated upon during the course of the Trial. Admittedly, the petitioner is a first-time offender, in custody since

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07.05.2023 and none of the 08 prosecution witnesses have been examined so far. Therefore, the Trial of the present case is not likely to be concluded anytime soon. In this situation, the further incarceration of the petitioner is not required.

8. Thus without commenting on the merits of the case, the present petition is allowed and the petitioner-Mohit son of Vishwash Nath is ordered to be released on bail subject to his furnishing bail bonds and surety bonds to the satisfaction of learned CJM/Duty Magistrate, concerned.

9. The petitioner shall appear before the police station concerned on the first Monday of every month till the conclusion of the trial and inform in writing each time that he is not involved in any other crime other than the present case.

10. In addition, the petitioner (or anyone on his behalf) shall prepare an FDR in the sum of Rs.3,00,000/- and deposit the same with the Trial Court. The same would be liable to be forfeited as per law in case of the absence of the petitioner from trial without sufficient cause.

11. The petition stands disposed of.

(JASJIT SINGH BEDI)
JUDGE

13.12.2023

JITESH

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