

CRM-M-43853-2023 (O&M)

226

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-43853-2023 (O&M)

Date of decision: October 09, 2023

Navtej Singh

....Petitioner

versus

State of Punjab

....Respondent

CORAM: HON'BLE MR. JUSTICE ARUN MONGA**Present:-** Mr. Sonpreet S. Brar, Advocate for petitioner.

Mr. Mohit Thakur, AAG Punjab.

ARUN MONGA, J. (ORAL)

Status report by way of an affidavit dated 08.10.2023 and custody certificate of petitioner dated 08.10.2023 have been tendered in course of hearing by learned State counsel, which are taken on record. Copies thereof have been supplied to learned counsel for petitioner.

2. This is the third foray of the petitioner before this Court seeking his release as an undertrial in a case bearing FIR No.208 dated 12.11.2018, registered under Sections 302, 307, 450, 148, 120-B of the Indian Penal Code, 1860 (hereinafter referred to as 'IPC') and Section 25 of the Arms Act, 1959 (hereinafter referred to as 'Arms Act'), at Police Station, Bagha Purana, District Moga. The first petition filed by the petitioner was dismissed as withdrawn vide order dated 19.01.2022 (Annexure P-5) passed in CRM-M-48852-2021. Second petition filed by the petitioner for grant of interim regular bail was disposed of vide order dated 17.11.2022 (Annexure P-6) passed in CRM-M-53001-2022.

3. The FIR in question has been lodged based on the complaint of Gurjit Singh, an eyewitness. He reported that on November 12, 2018, at around 4:30 p.m., three individuals on a motorcycle opened fire at his elder brother, Avtar Singh, also known as Gollu, and his namesake friend, Avtar Singh, also known as Taar. Avtar Singh, alias Gollu, sought refuge at the residence of Surjit Singh Mistry. However, one of the motorcycle occupants still pursued him into the house and fired 4 to 5 shots, resulting in

CRM-M-43853-2023 (O&M)

his demise. Meanwhile, Avtar Singh, alias Taar, sustained injuries in the incident. The petitioner was later arrested as a suspect and has been in custody since February 15, 2021.

4. At the outset, the learned counsel for the petitioner points out that a co-accused of the petitioner, namely, Varinderpal Singh, has already been granted anticipatory bail as per the order dated April 20, 2021 (Annexure P-7) passed in CRM-M-7532-2021 by a co-ordinate Bench of this Court. He further points out that another co-accused, namely, Nirmal Singh, also known as Nima, has been granted bail as per the order dated August 21, 2023 (Annexure P-8) passed in CRM-M-44155-2023 by this Court.

4.1. The learned counsel further contends that the petitioner has been implicated in this case based on the disclosure statement of one co-accused, namely, Lakhwinder Singh, who alleged that he used to obtain arms and ammunition from the petitioner and Varinderpal Singh. He submits that there is no evidence on record to attribute the alleged role to the petitioner.

4.2. The learned counsel for the petitioner relies on paragraph 16 of the status report/affidavit dated October 8, 2023, of the Deputy Superintendent of Police, Baghapurana, and states that concerning the present case, the role allegedly attributed to the petitioner is that he helped the prime accused to flee from the scene of the crime. Other than that, there is no attribution on his part involving an offense under Section 302 of IPC. He also states that concerning the other 12 cases, the petitioner is on bail in 02 cases, and in the rest, he has been acquitted; one of the FIRs has been canceled. Nothing is to be recovered from the petitioner.

5. On the contrary, 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.

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

7. In response to a query from the Court, under instructions from ASI Buta Singh, learned State counsel informs that the challan has been filed and charges were

CRM-M-43853-2023 (O&M)

framed on 28.07.2022. Thus, the investigation regarding the petitioner is complete, and he is not required for custodial interrogation. Of the thirty four witnesses, seventeen have already been examined so far. However, he submits that there are 12 other cases against the petitioner, out of which, in 02 he is on bail and in 07, he has been acquitted; one FIR has been cancelled.

8. At this stage, the allegations against the petitioner are subject to trial. 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 February 15, 2021, for more than 02 years and 07 months.

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

10. The petitioner is stated to be a 32-year-old family person having two minor children to look after, and the sole breadwinner of his family. Having a family to look after, a fixed abode, it is unlikely that he poses any flight risk and/or will flee from trial proceedings.

11. Co-accused of petitioner have been granted the concession of bail by this Court.

12. Considering the overall scenario, without commenting on the merits of the case, the instant petition is allowed. I am of the view that no useful purpose would be served by keeping the petitioner in further preventive custody.

13. Accordingly, the petitioner is ordered to be released on bail, in case not required in any other case, upon his furnishing bail bonds and surety bonds to the satisfaction of the learned trial Court, where his case is being tried, and in case he/she is not available, before the learned Duty Judge, as the case may be.

14. In case the petitioner is found involved or gets involved in any offense while on bail, the prosecution shall be at liberty to seek the cancellation of his bail in the instant case.

16. Pending applications, if any, shall also stand disposed of.

Yes/No