

CRM-M-52209-2022

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(221)

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-52209-2022

Date of Decision: 18.07.2023

SUKHA SINGH

... Petitioner

Versus

STATE OF PUNJAB

...Respondent

CORAM: HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present: Mr. Hasrat Brar, Advocate
for the petitioner.

Ms. Ramta K Chaudhary, DAG, 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.171 dated 24.12.2018 (Annexure P-1) registered under Section 395 IPC and Sections 25 and 27 of Arms Act, 1959 (Sections 397 and 398 IPC was added later on) at Police Station Makhu, District Ferozepur.

2. The present FIR came to be registered at the instance of Avtar Singh son of Sewak Singh who stated that he was a Taxi Driver of a Toyota Innova car bearing Registration No.PB-29-R-3849. On 24.12.2018 at about 03.30 in the afternoon, when he was present at his Taxi Union, three men between the ages of 25-30 years along with another person came to him and told him that they needed to hire a vehicle to go to Makhu. The deal was struck at Rs.1800 and a sum of Rs.600/- was paid to him with a promise to pay the rest later. When they reached Kot Ise Khan Chowk, the men in the car

stated that another man and two women had to come with them. He (complainant) stopped the car and the said man and two women also sat in the Innova car. Thereafter, on reaching Makhu one of the persons in the car asked him to go further on the Makhu Mallawala road. They then told him to turn the vehicle towards the Village Jhamke. On the asking one of the occupants, he stopped the vehicle as the occupant was feeling sick. On stopping the vehicle, the said person pointed a pistol at him, threw him out of the car, stole the vehicle and escaped. He gave information to the President of his Union and thereafter to the Investigating Agency.

3. The learned counsel for the petitioner contends that he has been falsely implicated in the present case without there being any admissible evidence against him. In fact, the co-accused of the petitioner namely, Harjit Singh son of S. Gurmail Singh and Remas @ Rebas @ Refas son of Shamma had faced trial and had been acquitted vide judgment dated 31.08.2022. As the petitioner was in custody since 18.08.2021 and only 03 out of the 14 prosecution witnesses had been examined so far, he was entitled to the concession of bail, when in the two other cases registered against him bearing FIR No.84 dated 31.07.2019 under Sections 15, 29, 61 and 85 of the NDPS Act Police Station Lohian and FIR No.249 dated 21.12.2016 under Sections 420, 407, 472 and 120-B of IPC Police Station Gate Hakima, he had been granted the concession of bail.

4. On the other hand, the learned State counsel contends that the petitioner is a habitual offender. Therefore, he was not entitled to the concession of bail. She, however, concedes that initially, a report under

Section 173(2) Cr.P.C. was submitted against the co-accused Harjit Singh and Remas @ Rebas @ Refas and the trial had culminated in the acquittal of the said accused. She also concedes that the petitioner is in custody since 18.08.2021 and only 03 out of the 14 prosecution witnesses had been examined so far as also the fact that in the two other cases registered against the petitioner, he has been granted the concession of bail.

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

6. The veracity of the prosecution case shall be adjudicated upon during the course of trial. Admittedly, the co-accused of the petitioner who had faced trial earlier had been acquitted. The petitioner is stated to be in custody since 18.08.2021 and only 03 out of the 14 prosecution witnesses have been examined so far. Therefore, the trial of the present case is not likely to be concluded anytime soon. In the two pending cases against the petitioner, he has been granted the concession of bail. As such, the further incarceration of the petitioner is not required.

7. Thus without commenting on the merits of the case, the present petition is allowed and the petitioner-Sukha Singh son of Surjit Singh is ordered to be released on bail on his furnishing bail bonds and surety bonds to the satisfaction of learned CJM/Duty Magistrate, concerned.

8. 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 cases mentioned in this order.

9. In addition, the petitioner (or anyone on her behalf) shall prepare an FDR in the sum of Rs.2,00,000/- 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.

10. The petition stands disposed of.

(JASJIT SINGH BEDI)
JUDGE

18.07.2023

JITESH

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