

CRM-52771-2023 IN/AND CRM-M-51741-2023

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2023:PHHC:161675

(110+224)

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-52771-2023 IN/AND
CRM-M-51741-2023
Date of Decision: 15.12.2023

GURSEWAK SINGH

... Petitioner

Versus

STATE OF PUNJAB

...Respondent

CORAM: HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present: Mr. Karandeep S. Sidhu, Advocate
for the petitioner.

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

JASJIT SINGH BEDI, J.

CRM-52771-2023

The present application has been filed by the applicant-petitioner
for placing on record Annexures P-4 & P-5.

For the reasons mentioned in the application, the same is
allowed and Annexures P-4 & P-5 are taken on record.

CRM-M-51741-2023

The prayer in the present petition under Section 439 Cr.P.C. is
for the grant of regular bail in case bearing FIR No.75 dated 16.05.2023
registered under Sections 307, 458, 427, 148, 149 of IPC, 1860 and Sections
25/27 of Arms Act, 1959 at Police Station Guruharsahai, District Ferozepur.

2. The brief facts of the case are that a case bearing FIR No.75
dated 16.05.2023 under Sections 307/458/427/148/149 IPC and Sections

25/27/54/59 of Arms Act, Police Station, Guruharsahai, District Ferozepur was registered on the statement of complainant-Mohinder Kaur against 4 accused persons namely, Gursewak Singh (petitioner), Jaspreet Kaur, Sukhcharan Singh, Ravi and 6/7 unknown persons, with the allegations that on 13.05.2023 at about 11.00 AM, the complainant along with her family was sleeping in their house and there arose a sound of knocking at the main door of their house. Then Gursewak (petitioner) armed with a pistol, his wife accused Jaspreet Kaur, Sukhcharan Singh armed with Kapa and Ravi armed with Kapa along with 6/7 unknown persons entered into their house after breaking the main gate and on entering, accused/petitioner-Gursewak Singh raised a Lalkara to catch hold off the complainant and her family and teach a lesson to them for raising quarrels. Gursewak Singh started firing shots of his pistol and he fired a direct shot on the complainant with an intention to kill her, which hit on the left side of her chest. The husband of the complainant raised a Raula and all the accused including the petitioner left the spot by raising lalkaras. Later on, the complainant came to know that the assailants had also gone to the house of her nephew kishan Singh, where the petitioner-Gursewak Singh fired shots in the air and the remaining accused damaged the house, vehicle make Alto and two motorcycles and went out of the village while firing shots. The motive behind the occurrence was that earlier, a quarrel had taken place between the families of the complainant and the accused/petitioner and the respectable persons of the village got effected their compromise. But the accused nursed a grudge and in connivance with each

other, the accused/petitioner-Gursewak Singh directly fired a shot on the complainant with an intention to kill her.

3. During investigation, petitioner-Gursewak recorded his statement that on 13.05.2023 at about 11.00 PM, one Ravi parked his four-wheeler in the street, Roop Singh armed with Dasta, Kishan Singh armed with Baseball bat, Mukhtiar Singh armed with Gandasi, Varinder Singh, Jagmeet Singh, Kala and Jaj Singh armed with a Dasta by misunderstanding that the said vehicle make Mohindra belonged to him picked up a quarrel with Ravi. When he (Gursewak Singh-petitioner) intervened, then Jaj Singh raised a Lalkara not to spare him and to teach him a lesson. Upon this, Mukhtiar Singh gave Gandasi blow and in order to ward off the same, when he (petitioner) raised his right hand, the same hit on the back of his hand. Thereafter, Jaj Singh gave a Dasta blow which hit on his back. Kishan Singh gave baseball bat blow on the wrist of his right arm. When Manpreet Kaur, his wife came to rescue him, the above named persons gave beatings and after ran sacking household articles and vehicles, they managed to abscond from the spot. He (Gursewak Singh) further recorded in his statement that while leaving the spot, they had also stolen the household articles and gold ornaments.

As per MLR No.1690/AB/CHF/23, dated 14.05.2023 of petitioner-Gursewak Singh, the doctors reported total 03 injuries on him, out of which, injury No.1 was kept under observation and injuries Nos.2 and 3 were declared simple. At that time, the statement of petitioner-Gursewak Singh was found suspicious and further action on the same was subject to the

facts brought on the record during investigation. On receipt of his X-ray report. A DDR No.40 dated 20.05.2023 was recorded in this regard.

Accused Sukhcharan Singh was not found present at the spot and was declared innocent vide DDR No.30 dated 25.05.2023.

On 11.06.2023, the petitioner was arrested but did not get recovered the pistol used by him in the alleged occurrence.

On 15.06.2023, Jaspreet Kaur @ Manpreet Kaur wife of the petitioner joined investigation.

During further investigation, it was found that the petitioner had also been injured in the occurrence but Ravinder Singh @ Varinder and Kishan were not found present at the spot and no truth was found in the allegations regarding stealing of any gold ornaments. Accordingly, on the statement of petitioner-Gursewak Singh which was earlier recorded by him vide DDR No.40 dated 20.05.2023, a cross-case under Sections 324/323/427/148/149 IPC was registered against Roop Singh, Mukhtiar Singh, Jagmeet Singh, Kala Singh and Jaj Singh vide DDR No.30 dated 23.06.2023. Later on, during further investigation, the Board of Doctors declared injury No.1 on the person of Gursewak Singh as grievous and accordingly, vide DDR No.29 dated 08.07.2023, the offence under Section 326 IPC was enhanced in cross-case.

The report under Section 173 Cr.P.C. was presented against the petitioner and Jaspreet Kaur on 11.09.2023.

4. The learned counsel for the petitioner contends that the petitioner has been falsely implicated in the present case. It was a case of

version and cross-version. The petitioner himself had received injuries and had been admitted at Civil Hospital Ferozepur. It was the complainant party which was the aggressor side. There was an unexplained delay of 03 days in the registration of FIR which would show the present FIR was a concocted one. As the petitioner was a first-time offender, in custody since 11.06.2023 and none of the 16 prosecution witnesses had been examined so far, the Trial of the present case was not likely to be concluded anytime soon and therefore, he was entitled to the concession of bail.

5. A short reply dated 15.12.2023 by way of an affidavit of Bhupinder Singh, PPS, Deputy Superintendent of Police (Investigation) Ferozepur, having additional charge of Sub Division, Guruharsahai, District Ferozepur 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 petitioner is the main accused having fired at the injured. Therefore, he was not entitled to the concession of bail. He, however, concedes that it is a case of version and cross-version wherein the petitioner has also received injuries. He also concedes that the petitioner was a first-time offender, in custody since 11.06.2023 and none of the 16 prosecution witnesses had been examined so far.

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 11.06.2023 and none of the 16 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-Gursewak Singh son of Binder Singh 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. If the petitioner or his family members/associates make any attempt to contact/threaten/intimidate the witnesses in the present case, the State would be at liberty to move an application for cancellation of bail granted vide this order.

11. In addition, the petitioner (or anyone on his behalf) shall prepare an FDR in the sum of Rs.50,000/- 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.

12. The petition stands disposed of.

(JASJIT SINGH BEDI)
JUDGE

15.12.2023

JITESH

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