

211

2023:PHHC:088982

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CRM-M-55014-2022

Date of decision: 17th July, 2023

Gurjit Singh

...Petitioner

Versus

State of Punjab

...Respondent(s)

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: Mr. Umesh Aggarwal, Advocate for the petitioner.
Mr. Ramdeep Partap Singh, Sr. DAG, Punjab.

AVNEESH JHINGAN, J (Oral):

1. This petition is filed seeking regular bail in FIR No. 227, dated 4th August, 2020, under Sections 302, 307, 341, 148, 149 and 120-B of Indian Penal Code, 1860, Section 25/27 of Arms Act, 1959 and Section 201 of IPC, 1860 (added later on), registered at Police Station City District Tarn Taran.

2. Learned counsel for the petitioner claims parity with co-accused Rajinder Singh who was granted regular bail by this court on 24th April, 2023.

3. The following order was passed by this Court on 24th April, 2023 in CRM-M-56015-2022:-

“Prayer in this 2nd petition is for grant of regular bail in FIR No.227 dated 04.08.2020 under Sections 302, 307, 341, 120-B, 148, 149 IPC and Sections 25/27 of Arms Act (Section 201 IPC and Sections 54/59 of Arms Act were added later on), registered at Police Station City Tarn Taran; earlier one was dismissed as withdrawn on 01.12.2021.

Learned counsel for the petitioner submits that new ground for filing this second petition is that now all the material prosecution witnesses have been examined and from the statement of injured witness and the complainant, specific role of the petitioner is assigned.

Brief facts of the case are that aforesaid FIR was registered on the statement of Paramjit Singh (PW3), wherein he stated that on 03.08.2020, Jasbir Singh @ Fauji (father of the petitioner) made a video against him and his son and posted the same on social media to defame them. On coming to know that they convened a panchayat and Jasbir Singh was called, wherein he became angry and spoke abusive language. On this, Kulbir Singh, Sarpanch, who was present there, got the matter compromised between the parties and gave assurance that Jasbir Singh will not do any such act in future. It is further stated that on 04.08.2020 at about 12:00 noon, persons namely Gurjit Singh son of Mukhtiar Singh, Jaskirat Kaur daughter of Jasbir Singh, Charanjit Kaur wife of Jasbir Singh and Rajinder Singh (petitioner) were standing in the street and blocked their way. Gurjit Singh and petitioner Rajinder Singh raised lalkara to teach them a lesson for called them in the panchayat and started giving abusing them. When the complainant side asked them not to do the same, Jaskirat Kaur ran away to her house and went to roof-top of house of her uncle (Chacha) Jaspal Singh by holding her father's licenced 12 bore double barrel gun in her hands and told her father Jasbir Singh and uncle Jaspal Singh to settle the dispute. Thereupon Jasbir Singh and Jaspal Singh also came at roof-top and Jasbir Singh fired two shots from the gun, which he was holding in his hands directly towards them. One shot hit his son Sukhchain Singh on upper portion of the body and he fell down. When he raised the voice for help, Jaspal Singh took the gun from his brother Jasbir Singh and another gun shot was fired, which hit injured Gurpreet Singh. Thereafter, many people gathered there and Sukhchain Singh was taken to Civil Hospital, Tarn Taran, where he was declared brought dead.

Learned counsel for the petitioner submits that all the material prosecution witnesses have already been examined. With reference to statement of complainant/PW3 Paramjit Singh, it is submitted that he deposed on the lines of FIR and has attributed the only role to the petitioner that he along with Gurjit Singh raised lalkara to teach a lesson to the complainant side and thereafter, other accused opened fire. Similar is the statement of injured witness Gurpreet Singh, who also attributed the lalkara to the petitioner and co-accused Gurjit Singh. It is further submitted that out of total 26 prosecution witnesses, only 04 PWs, including PW1 Sarwan Singh, who identified the dead body of Sukhchain Singh, PW2 Kulbir Singh, Sarpanch of the village, who is a witness of the panchayat. In the statement of PW3 Paramjit Singh, it is nowhere come that at the time, when the panchayat was convened on 23.08.2020, the petitioner was present there. Even the statement of injured witness/PW4 Gurpreet Singh was also recorded.

Learned counsel has further submitted that the petitioner is in custody for the last about 02 years and 08 months and is not involved in any other case and all the material witnesses have already been examined, therefore, there is no possibility of tempering with the prosecution evidence.

Learned State counsel, on the basis of affidavit of Investigating Officer/SHO, Police Station City Tarn Taran, has submitted that the petitioner was a member of unlawful assembly, which gathered with a common intention and raised lalkara, therefore, he is also the main accused.

After hearing learned counsel for the parties, without commenting anything on merits of the case and considering aforesaid facts and circumstances of the case, this petition is allowed and the petitioner is directed to be released on regular bail subject to furnishing his bail/surety bonds to the satisfaction of the trial Court/Illaq Magistrate/Duty Magistrate, concerned.

Petition is disposed of."

4. Learned counsel for the State though opposes the prayer for grant of bail but on instructions fairly submits that challan has been presented. He is not in a position to distinguish the case of the petitioner qua the co-accused so far as grant of bail is concerned.

5. Without commenting on the merits of the case, on the basis of parity of petitioner vis-a-vis co-accused so far as grant of bail is concerned, custody is almost three years and though the investigation is complete but conclusion of trial is likely to take time, the petitioner is granted bail subject to his furnishing bail bonds to the satisfaction of the Chief Judicial Magistrate/ Duty Magistrate concerned.

6. The petition is allowed.

7. However, it is clarified that observations made hereinabove shall not be construed as an expression of opinion on the merits of the case.

[AVNEESH JHINGAN]
JUDGE

17th July, 2023

Parveen Sharma

1. Whether speaking/ reasoned	:	Yes / No
2. Whether reportable	:	Yes / No