

**218 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CRM-M-59779-2022 (O&M)

Date of decision : 31.01.2023

Hardev Singh

.....Petitioner

versus

State of Punjab

..... Respondent

CORAM : HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present :- Ms. Vikram Chaudhari, Senior Advocate with
Ms. Hargun Sandhu, Advocate and
Mr. Digvijay Singh, Advocate
for the petitioner.

Mr. Karunesh Kaushal, AAG, Punjab.

Mr. R.S. Rai, Senior Advocate with
Mr. Rahul Bhargava, Advocate
for the complainant.

RAJESH BHARDWAJ, J. (Oral)

CRM-1816-2023

Application is allowed as prayed for.

Annexures P-10 to P-33 are taken on record.

CRM-M-59779-2022

Petitioner has approached this Court for grant of regular bail in cross-case registered vide DDR No.17 dated 27.03.2022, under Sections 307, 506, 148, 149 of IPC and Sections 25, 27 of the Arms Act in case FIR No.50 dated 27.03.2022, under Sections 325, 323, 160, 427, 506, 336, 148, 149 of IPC in which offence under Section 307 IPC and Sections 25, 27, 54 of Arms Act were added later on, registered at Police Station Ranjit Avenue, District Amritsar City.

Adumbrated facts of the case are that on the statement of Kanwar Pal Singh, FIR No.50 dated 27.03.2022 was registered. The sum and substance of the allegations made by the complainant in the FIR that on the date of occurrence i.e. 27th March, 2022, there was a function pertaining to inauguration of his Kothi No.19-A and numerous guests had attended the same. On account of closing of the door by the neighbour, there arose a dispute which finally took an ugly turn. He alleged that his neighbour Paramjit Singh Batra and his sons got infuriated on the objection raised by his gunman regarding closing of the door and they were attacked by his neighbour side with sword and axes. When he came out, he found that security guards got injured and he was to be admitted in Paarvati Devi Hospital for treatment. A cross-version was also lodged by the police on the statement of Rahimat Batra son of Paramjit Singh Batra vide DDR No.17 dated 27.03.2022. It was alleged that version put forward by the complainant in the FIR was exaggerated whereas, it was the complainant side of this DDR who was the victim at the high handedness of the other side. It was alleged that the security guard Hardev Singh and another whose name he did not know, fired three shots from firearm weapon towards Kanish Batra which hit on the left side of the chest and left thigh. The other security guard also fired bullet which hit on the left thigh of Paramjit Singh Batra. In the meantime, the PCR came on the spot and injured were admitted in Amandeep Hospital for treatment. It was prayed that Kanwar Dhingra and his security guard Hardev Singh along with other security guard and 3-4 relatives whom he can recognize fired shots and caused injuries to the complainant side and the action was sought to be taken against them. In pursuance to recording

of FIR and cross-version DDR, investigation commenced. Petitioner in the present case was arrested on 04.05.2022. He approached the Court of learned Additional Sessions Judge, Amrtisar praying for grant of bail. However, after hearing counsel for both the sides, learned Additional Sessions Judge, declined the same vide his order dated 14.12.2022. Aggrieved by the same, petitioner is before this Court by way of filing the present petition.

Learned Senior counsel appearing for the petitioner has vehemently contended before this Court that the petitioner has been falsely and frivolously implicated in this case. He has submitted that at the behest of the employer of the petitioner, FIR No.50 dated 27.03.2022 was registered. The accused in said FIR got flared up and he along with his sons and other relatives attacked on them. He submits that admittedly there was a function in the family of the employer of the petitioner and the petitioner being the security guard was doing his duty but he and his employer were mercilessly attacked by them. He has submitted that the cross-version has been lodged against the petitioner only in order to create a defence to the FIR filed at the behest of the employer of the petitioner. He submits that though the allegations are pertaining to firearm injuries caused, however, by perusing the MLR it is clear that the grading of the injury was not permissible and it is disputed whether it was a firearm injury or the injuries were caused by a sharp edged weapon. He has further argued that the injured on the other side were first taken to Amandeep Hospital and thereafter, shifted to Guru Nanak Dev Hospital. He has submitted that the discharge summary would show that there was no serious injuries as alleged. However, the opinion given by the doctors would also nullify the allegations made in the FIR regarding the veracity of the seriousness of the injuries alleged. He submits

that in the FIR filed at their behest in all there are 13 accused, out of them, 04 accused are already on anticipatory bail and 09 accused are yet to be arrested whereas in the cross-version registered against the petitioner side, both the gunman have been alleged to have caused injuries out of which another gunman is already on bail and the petitioner himself suffered firearm injuries and remained admitted in Hospital for about 45 days. He submits that the petitioner has no criminal antecedents. Investigation is already complete and the petitioner is behind bars since 04.05.2022. Hence in the facts and circumstances of the case, the petitioner deserves to be granted regular bail.

Learned Senior counsel for the complainant, on the other hand, has vehemently contended that the FIR lodged by the petitioner is totally with fabricated allegations. He has relied upon MLR of the injured Kanish Batra where 04 injuries are shown to have been caused with firearm weapon. He submits that as per the opinion of the doctor, injuries were declared dangerous to life and the injured remained admitted in the hospital for about 14 days and thereafter, he was discharged. He submits that the gunmen of the employer were duly armed and there is not an *iota* of doubt regarding firearm being used by them on opening attack on the complainant side. He submits that the another gunman who has been granted bail is not appearing before the trial Court. He further submits that the cumulative effect of the injuries with firearm weapon was too serious and the same do not entitle the petitioner for grant of regular bail.

Learned State counsel has submitted before this Court that admittedly the case is of version and cross-version. In the FIR in all there are 13 accused, out of which, 04 accused have been granted anticipatory bail and 09 accused are yet to be arrested. He has further submitted that in

the cross-version recorded vide DDR No.17 dated 27.03.2022, there are two accused and other gunman has already been granted bail whereas the present petitioner is behind bars since 04.05.2022. He has submitted that the investigation in both the cases is complete and challans are presented. He further submits that the case is fixed for framing of charge on 28.02.2022. He submits that the accused on both the sides are the first time offenders and they have no criminal antecedents.

I have heard counsel for the parties and perused the record.

Admittedly, the case is of version and cross-version. The injuries are on both the sides who are facing the allegations pertaining to the offence under Section 307 IPC along with other offences. Which side is aggressor is totally subject matter of the trial to be evaluated. Admittedly on one side, there are 13 accused, out of which, 04 accused are on bail and 09 accused are yet to be arrested whereas, on the other side in the DDR in which the bail is being sought by the petitioner there are 02 accused, out of which, 01 accused is already on bail and the present petitioner is behind bars since 04.05.2022. There is nothing on record to show that the petitioner or any other side has any criminal antecedents. The incident has taken place when there was a function going on in the family of the complainant in FIR no.50 dated 27.03.2022.

The veracity of the allegations would be assessed only after the conclusion of the trial and on the appreciation of evidence to be led by both the parties before the trial Court. This Court would refrain itself from commenting anything on the merits of the case. The trial of the case will take sufficiently long time. Keeping in view the arguments raised by both the sides and perusing the record, this Court is of the opinion that

learned counsel for the petitioner succeeds in making out a case for grant of regular bail. Accordingly, the present petition is allowed and the petitioner is ordered to be released on bail on his furnishing bail/surety bonds to the satisfaction of the concerned trial Court/Duty Magistrate. Nothing said herein shall be treated as an expression of opinion on the merits of the case.

In case the petitioner is found to have misused the concession of bail at any stage the investigating agencies are at liberty to take remedial steps as provided under law.

(RAJESH BHARDWAJ)
JUDGE

31.01.2023
m. sharma

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