

CRM-M-62 of 2023

2023:PHHC:049456

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

CRM-M-62 of 2023

Date of decision: 11.04.2023

Balwinder @ Mithan

.....Petitioner

versus

State of Punjab

.....Respondent

CORAM: HON'BLE MR. JUSTICE NAMIT KUMAR

Present: Mr. R.S. Sekhon, Advocate, for the petitioner.
Mr. Jashanpreet Singh, DAG, Punjab.

NAMIT KUMAR, J.

This petition has been filed by the petitioner under Section 439 Cr.P.C. seeking regular bail in case FIR No.72 dated 29.05.2021 under Sections 302, 336, 506, 148, 149 IPC and Sections 25, 27/54/59 of the Arms Act, Registered at Police Station Sadar Ferozepur, District Ferozepur.

The present FIR was registered at the instance of Vijay Kumar son of Ashiq, on the allegations that on 29.05.2021 at about 02.00 p.m., he came back to his house from the shop, where he is working. There arose noise outside his house. He came out and saw Davinder @ Laddi along with Rishu quarreling with his brother Sonu @ Choocha. The respectables of locality pacified them and sent back to their respective houses. Thereafter, Sarpanch Major Singh and Chhinder Singh Member convened Panchayat at the house of Mohinder Pal son of Surinder Pal to prevail better sense amongst the quarreling persons. When complainant along with others was standing outside in the street David @ Laadi armed with Pistol, Lovekesh son of Major, Akash son of Nishan, Abbi son of Mohinder Pal armed with

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Pistols, Jagga son of Sheera armed with Kappa, Bagga son of Pagga, Rinku son of Mohinder Pal, Samson son of Rinku, Ravi Pardhan along with 5-6 unknown persons while firing shots in air came to the houses of complainant party, looking for Jafar son of Manjeet Kaur, who did not meet and they left the spot. Thereafter, at about 04.00 p.m., his brother Sonu went to the house of Mohinder Pal, where the Panchayat was convened for effecting compromise. He heard shrieks from house. He saw from terrace that David @ Laadi armed with pistol, Lovekesh, Akash, Abbi, Jagga, Pagga, Rinku, Samson and Ravi Pardhan were giving beatings to his brother. They threw his brother from terrace after firing shots on him. His brother succumbed to firearm injuries. Besides this, Laadi fired shots in his house in order to save his father Mohinder Pal and Rinku. According to complainant, the motive behind the occurrence was that, one Sherry, friend of his brother had pledged I-20 car belonging to David for some money, due to which there was dispute between them and they killed his brother.

Learned counsel for the petitioner submits that the petitioner is innocent and has been falsely implicated in the present case. He further submits that petitioner was not named in the FIR and has been named in the supplementary statement of the complainant. He further submits that no specific role has been attributed to the petitioner. Only allegation against the petitioner is that he was part of the unlawful assembly. Learned counsel further submits that investigation in the present case is complete; challan has been presented and charges are yet to be framed. He further submits that trial may take a considerable time to conclude. Therefore, no fruitful purpose would be served by detaining the petitioner behind bars.

Per contra, learned State counsel, while placing on record custody certificate, has opposed the prayer for grant of regular bail to the petitioner submitting that he is involved in five more cases. However, he could not refute that investigation in the present case is complete; challan has been presented and charges are yet to be framed; petitioner is in custody for a period of 01 year 04 months and 13 days.

Learned counsel for the petitioner submits that out of five cases, in three cases petitioner is on bail, in one he has been acquitted and in one case he was found innocent. Learned counsel has relied upon the judgment of Hon'ble Supreme Court in ***Maulana Mohd. Amir Rashadi Vs. State of U.P. and another, 2012 (2) SCC 382*** to contend that the facts and circumstances of the present case are to be seen while deciding a bail application and the bail application of the petitioner cannot be rejected solely on the ground that the petitioner is involved in other cases. The relevant portion of the said judgment is reproduced hereinbelow:-

“As observed by the High Court, merely on the basis of criminal antecedents, the claim of the second respondent cannot be rejected. In other words, it is the duty of the Court to find out the role of the accused in the case in which he has been charged and other circumstances such as possibility of fleeing away from the jurisdiction of the Court etc.”

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

Keeping in view the custody of the petitioner, which is 01 year 04 months and 13 days; investigation in the present case is complete; challan has been presented and charges are yet to be framed and trial is likely to take a considerable time, however, without commenting upon the merits of the

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case, the petitioner is ordered to be released on regular bail during trial on his furnishing bail bonds/surety bonds to the satisfaction of Illaqa Magistrate/Trial Court.

The petition stands disposed of accordingly.

11.04.2023
R.S.

(NAMIT KUMAR)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No