

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

**CRM-M No. 6109 of 2021 (O&M)
Date of Decision: 12.03.2024**

Gurkirat Singh Virk

..... Petitioner

Versus

State of Punjab

..... Respondent

CORAM: HON'BLE MR. JUSTICE HARKESH MANUJA

Present: Mr. Satnam Singh Gill, Advocate
for the petitioner.

Mr. Kewal Singh, Additional Advocate General, Punjab

Mr. Charanjit Singh Bakshi, Advocate and
Mr. Gagandeep Singh, Advocate
for the complainant.

HARKESH MANUJA, J. (ORAL)

The petitioner, by way of present **(Third)** petition filed under Section 439 Cr.P.C., seeks grant of regular bail in case bearing FIR No. 77 dated 07.09.2017, under Sections 302 / 120-B of IPC and Section 25 of Arms Act, 1959, registered at Police Station Banur, Patiala, District Patiala [now District SAS Nagar (Mohali)], wherein he has been implicated with the allegations of having actively participated in the murder of one Daljit Singh @ Pinchi (deceased).

[2] Learned counsel for the petitioner submits that no overt act has been attributed to the petitioner as the allegations against him is that he was present in the vehicle, which reached the spot alongwith other accomplices. He further submits that no recovery has been effected from the petitioner; thus, there is nothing to connect him with the alleged offence. He also points

out that the petitioner has no past criminal antecedents regarding his involvement in any kind of criminal activity. He further submits that the investigation in the present case stands concluded with the filing of challan, followed by framing of charges and the petitioner is in custody for the past more than 4 years and 5 months and the trial has been deliberately delayed at the instance of complainant / eye witness, who failed to appear before the trial Court for long; thus no useful purpose is going to be served by keeping him in custody.

Learned counsel for the petitioner also submits that the deceased-Daljit Singh @ Pinchi was not having clean antecedents as he was involved in almost eight cases. He further relies upon the deposition made by the complainant / eye-witness (Lovejot Singh), to point out certain inconsistencies.

[3] On the other hand, prayer made in the present petition has been vehemently opposed by the learned State Counsel assisted by Mr. Charanjit Singh Bakshi, learned counsel for the complainant, while submitting that even as per the case set up by the petitioner at the time of consideration of his first bail application vide CRM-M-48820-2018, decided on 26.03.2019 (Annexure P-1), was that he himself was driving the vehicle which, was used in commission of crime for taking the other assailants to the place of incident.

Learned counsel for the complainant further submits that the eye-witness / complainant (Lovejot Singh) as well as other eye-witness, namely, Sukhvir Singh, while appearing as PW-1 & PW-2, respectively, have duly identified the petitioner being driving of the vehicle used in the

offence, besides his presence; thus, his involvement was writ large.

[4] After hearing learned counsel for the parties, I am unable to find any substance in the submissions made on behalf of the petitioner.

[5] A cumulative analysis of the facts and circumstances of the present case, the material available on record besides, the allegations levelled in the FIR and also the gruesome manner in which the offence has been committed, the petitioner does not deserve the concession of bail.

[6] In the present case, right from the registration of FIR, the name of petitioner has surfaced in the statement of complainant while appearing as PW-1, which has been further corroborated and substantiated in the deposition made by other eye-witness, namely, Sukhvir Singh (PW-2), who also categorically deposed on oath that the petitioner was a person, who was driving the vehicle, on which the assailants reached the place of incident, wherein the deceased (Daljit Singh @ Pinchi) was done to death having fired upon 22 shots. The ghastly manner in which the incident took place itself reflects the premeditated mindset of the petitioner and his other accomplices, who apparently were on mission to eliminate the deceased. Relevant extract from the deposition of PW-1 / eye-witness-complainant (Lovejot Singh) is re-produced as under:-

“ I identify the above said accused namely Nirmaljeet Singh Nimma and Sukhjit Singh Sukha present in the Court. Gurkirat Singh was sitting on the driver seat of the abovesaid Endeavour car who is present in the Court and I identify him. Three other person were also sitting in the above said car. Then above said persons started firing towards my uncle due to which my uncle fell down on the road. My uncle ran for two three step before falling down.

Then the above said accused persons fled away from the spot with their respective weapons in the above said car towards village Rajomajra. My uncle received the fire injuries on his person then I informed home regarding this incident thereafter I along with Sukhbir singh and my younger brother Dilpreet Singh took my uncle to Ivy Hospital Mohali where doctor declared him brought dead. By hatching the criminal conspiracy of Nirmaljeet Singh Nimma and Sukhjeet Singh Sukha my uncle namely Daljit Singh was got murdered by the above said persons. My aunt was Municipal Councilor of Banur at that time and accused Nirmaljeet Singh Nimma was president of the Municipal Council. All the Municipal Council want to replace Nirmaljeet Singh Nimma with my aunt as President of Municipal Council Banur. There are so many criminal cases are pending between my uncle and Nirmaljeet Singh etc. Due to above said enmity the above said accused persons committed the murder of my uncle.”

[6.1] Mere fact that the petitioner is behind the bars for a period of 4 years and 5 months cannot only be taken as a ground to entail him the benefit of regular bail as the custody period besides the rights of the complainant and the deceased are also to be balanced and need to be considered while comparing the rights of the petitioner as well as the rights of the complainant and the deceased.

[6.2] Moreover, the argument raised by the petitioner that the trial primarily got delayed on account of non-appearance of the complainant (PW-1) is one part of the story, rather on the contrary, as an effect of constant threat perception from the accuseds, the complainant (eye witness) was compelled to approach this Court for conducting of a fair investigation in the FIR vide **CWP-24149-2018**, titled **“Lovejot Singh Versus State of**

Punjab and others", which came to be disposed off vide order dated 18.10.2023 passed by this Court.

[6.3] From a perusal of records, it appears that the role of investigating agency was also not above board. The two assailants namely, Amrit and Simrat, who were specifically named in the FIR carrying revolver having given fire arm injuries to the deceased, have not yet been apprehended, followed by their declaration as proclaimed offender and no satisfactory answer has been provided to this Court in this regard, while even fortifies the stand of complainant about he being under threat while pursuing the trial besides, apprehension of petitioner of fleeing away.

[6.4] The argument raised that the deceased himself was involved in eight (08) criminal cases is not sustainable, as the same does not give any right to the petitioner to eliminate him, as at best, he could have been subjected to law. The incident in question which apparently is an offshoot of political rivalry, which makes it more serious in nature as it hits the entire democratic set up.

[6.5] Learned counsel for the complainant also referred to an order dated 20.02.2024 passed by the learned Additional Sessions Judge / Judge Special Court, SAS Nagar (Mohali) so as to put forth the conduct of the investigating agency / prosecution witnesses, though having been bound down for hearing, they chose not to appear before the trial Court, thereby leading to delay in the trial on account of police witness, which has been beyond the control of complainant and for the reasons best known to the prosecuting agency.

[7] In the aforesaid facts and circumstances, finding no merit in the present petition, the same is hereby **dismissed**.

[8] Pending miscellaneous application(s), if any, shall also stand disposed off.

March 12, 2024
'dk kamra'

(HARKESH MANUJA)
JUDGE

<i>Whether Speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether Reportable</i>	<i>Yes/No</i>