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(223-2)

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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-9081-2024 (O & M)
Date of decision: 02.05.2024

Lakhbir Singh @ Lakha Fauji Petitioner
V/s

State of Punjab ...Respondent

CORAM: HON’BLE MR. JUSTICE JASJIT SINGH BEDI

Present: Mr. V.K. Sandhir, Advocate,
for the petitioner.

Mr. Harkanwar Jeet Singh, AAG, Punjab.

Mr. Sandeep S. Majithia, Advocate,
for the complainant.

JASJIT SINGH BEDI, J. (Oral)

The prayer in the present petition under Section 439 Cr.P.C. is for the grant of regular bail to the petitioner in case FIR No.191 dated 25.10.2023 under Sections 302, 307, 148, 149 and 120-B IPC read with Sections 25/27/54-59 of the Arms Act registered at Police Station Cantonment, Amritsar.

2. The present FIR came to be registered at the instance of Balwinder Singh son of Balkar Singh and reads as under:-

“Statement of Balwinder Singh Son of Balkar Singh Resident of Village Ratte-ke Police Station Khem Karn District Tarn Taran now Resident of House No. 5 Street No. 8 Moni Park Police Station Islamabad ASR Age About 65 Years Mobile Number 9855263874, it is stated that I am a resident of the above said address and I was working as guard till 2011 in Cooperative Sugar Mill Jira now I am doing my farming. Gurpraves Singh was my only son who is about 22 years old who was working as hotel manager at Khalsa College ASR. Today my brother Resam Singh son of Balkar Singh resident of village Ratte-ke had also

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come to our house and as it was Dussehra holiday, me and my son and wife Lakhwinder Kaur were present in my house. My son told me that my friend Sunitpal Singh alias Bal son of Ajmer Singh resident of Urban Estate Ram, Tirth Road, ASR has called him, but I stopped my son from going and said that today is the day of Dussehra, where are you going, even though I told him, my son left home at that time it was around 12/30 PM. Me and my brother Resam Singh also took his motorcycle towards Bal's house and went to Ram Tirth Road. When we reached Radha Swami Dera, Ram Tirath Road, I saw that my son Gurpraves Singh was sitting in his friend Bal's car and Ball was driving the car and were going towards the bypass. We took our motorcycle behind them. Just a head of Holy City Bridge before the bypass, there was already an accident of Inova Crista and Verna car. Some boys were already standing there. Ball also stopped his car and got out of the car and started talking to the boys. At that time it was around 2.00 PM. We were a little behind and 3-4 cars came from our rear side, out of which 10/12 boys got out. One of the boy named Fateh Randhawa from Kukrawala started fighting with Ball and Fateh Randhawa took out his pistol and started hitting the butt of the pistol on Ball's head. Whereupon Ball and Fateh Randhawa got into a fistfight. My son Gurpraves Singh started to free them but others came with Fateh Randhawa. The boys took out their own weapon and started firing directly with the intention of killing, one of which hit my son Gurpraves Singh on the left side of his waist and some bullets also hit left side of his stomach. Me and my brother raised the alarm of killed-Killed. Then Fateh Randhawa party got into their car along with their own weapons and escaped from the spot. My son fell downn on the ground. I along with my brother Resham Singh and some of the boys got him admitted in Amandeep Hospital ASR after arranging the vehicle. However, he died during the treatment. Now I have come to know that my boy's friend Sunitpal Singh aka Bal has been shot in the left arm and another boy who is standing next to Ball is Sawanpreet Singh son of Gurbhaj Singh.

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resident of village Kombo ASR, was shot in both the legs. Both these boys are under treatment at Guru Nanak Dev Hospital ASR. The boys who shot, Fateh Randhawa, Gurwinder Maan Bagga, Parman, and Bhola @ Lada, about them I have come to know. I can easily recognise the others in case they appear before me. The cause of enmity is that Sunitpal Singh already had tussle with Fateh Randhawa, however, excesses have been committed with us, strict action be taken against the culprits. SD/- Balwinder Singh”.

3. During the course of investigation, the scene of crime was inspected and 02 empty cartridges cases of .45 bore, 10 empty cartridges cases of .32 bore and 03 empty cartridges cases of .32 bore special were recovered from the place of occurrence.

Injured Sawalpreet Singh and Sunit Pal Singh were medico legally examined. It transpired that they had suffered injuries in the occurrence.

During the course of further investigation, secret information was received by the investigating officer about the involvement of accused- Gurjant Singh, Simarjit Singh, Lovedeep Singh and Sanbir Singh. They were all nominated as accused in the present case. Sanbir Singh was arrested on 11.11.2023 from Kolkata Airport.

Sanbir Singh suffered his disclosure statement that at the time of the commission of the offence, he was carrying a 12 bore DBBL gun belonging to Lakhbir Singh @ Lakha Fauji (petitioner) and he had fired shots from the said weapon. As per the disclosure statement, the petitioner had given him the weapon for getting it serviced and it had been loaded with two live cartridges which had been fired at the time of the occurrence. The weapon was recovered from the house of Sanbir Singh on 14.11.2023 and

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Lakhbir Singh @ Lakha Fauji was nominated as an accused in the present case on 17.11.2023. It transpired that though, the weapon was a licensed one, the licence had not been renewed and had, hence, expired.

During the course of investigation, it also transpired that Simarjit Singh had taken the main accused to the place of occurrence in his vehicle.

The report under Section 173(2) Cr.P.C. was presented against Lakhbir Singh @ Lakha Fauji, Gurjant Singh, Simarjit Singh, Lovedeep Kumar and Sanbir Singh on 30.01.2024.

4. The learned counsel for the petitioner contends that the petitioner has been falsely implicated in the present case. Taking the allegations to be correct, the petitioner had handed over his weapon to Sanbir Singh in order to get it serviced. It was Sanbir Singh who had fired at the deceased using the weapon of the petitioner. This fact was unknown to the petitioner. As per the case of the prosecution, the petitioner was not present at the spot. As he was in custody since 17.11.2023 but none of the 32 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. The learned counsel for the State and the counsel for the complainant have vehemently opposed the bail petition contending that it was in the knowledge of the petitioner that the weapon which he had handed over to Sanbir Singh was likely to be used in the occurrence because of which two cartridges had also been given to the said Sanbir Singh alongwith the weapon for service. Therefore, the petitioner was not entitled to the concession of bail. They, however, concede that the petitioner was in

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custody since 17.11.2023 and none of the 32 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 in custody since 17.11.2023 but none of the 32 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 upon the merits of the case, the present petition is allowed and the petitioner, namely, Lakhbir Singh @ Lakha Fauji is ordered to be released on bail to the satisfaction of the Trial Court/Duty Magistrate concerned.
9. The petitioner shall appear on the first Monday of every month before the police station concerned till the conclusion of the trial and furnish an affidavit each time that he is not involved in any other case except the present one.
10. In addition, the petitioner (or anyone on his behalf) shall prepare an FDR in the sum of Rs.2,00,000/- 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.
11. The present petition stands disposed of.

(JASJIT SINGH BEDI)
JUDGE

May 02, 2024
sukhpreet

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