



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

CRM-M No.12154 of 2024
Date of decision: 24th July, 2024

Tejinderpal Singh @ Happy

... Petitioner

Versus

State of Punjab

... Respondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present: Mr. Salil Dev S. Bali, Advocate for the petitioner.

Mr. Amit Rana, Sr. Dy. Advocate General, Punjab
for the respondent/State.

Mr. Amtiaz Sandhu, Advocate for the complainant.

MANJARI NEHRU KAUL, J.

1. The petitioner is seeking the concession of bail under Section 439 Cr.P.C. in case FIR No.26 dated 10.05.2023 under Sections 307, 323, 34 of the IPC, Sections 27, 29 of the Arms Act, 1959 (Sections 25, 30, 54, 59 of the Arms Act added and Section 27 deleted later on) registered at Police Station Arif Ke, District Ferozepur.

2. Learned counsel for the petitioner submits that the complainant, while lodging the FIR in question, has deliberately suppressed the true origin of the incident. A video recording made at the spot captures the entire occurrence, clearly showing the circumstances under which the petitioner was compelled to fire from his firearm. It has been asserted that this footage demonstrates that it



was the complainant who initiated the occurrence in question and attempted to deliver a blow with a Gandasa on the petitioner, prompting the petitioner then to fire back in self defence. It has been submitted that this video footage is a part of the challan, and unmistakably shows that it was the complainant who was the aggressor. It has also been submitted that the petitioner responded only after being attacked, resulting in the shot fired by him hitting the lower leg of the complainant.

3. It has still further, been contended by the learned counsel that the petitioner has now been in custody since 15.05.2023, with the final report under Section 173 Cr.P.C. submitted on 14.08.2023; the injuries sustained on the complainant are on his non-vital parts as is also confirmed by his MLR and in the FIR in question (Annexure P-1). Furthermore, and most pertinently, despite being fully conscious, the complainant for reasons best known rather obvious, delayed filing the FIR by two days, without providing any justification for this delay. It has still further, been submitted that it is a matter of record that during the trial, the complainant and one of the witnesses Kamaldeep Singh had intentionally avoided appearing, necessitating the issuance of bailable warrants. Additionally, now an application under Section 319 Cr.P.C. has been filed, which will inevitably delay the trial further. Learned counsel has asserted that this clearly suggests that the complainant party aims to prolong the trial so as to keep the petitioner



incarcerated. Learned counsel has, therefore, prayed that in the aforementioned facts and circumstances, further incarceration of the petitioner would serve no useful purpose and he be enlarged on bail, more so when he is not involved in any other criminal case.

4. Per contra, learned State counsel assisted by learned counsel for the complainant, has opposed the prayer and submissions made by the counsel opposite and reiterated the following allegations levelled in the FIR in question.

“Statement of Surinder Singh son of Gurcharan Singh resident of Village Arif Ke, PS Arif Ke, Aged about 52 years, Mobile No. 98145-62533, stated that I am a resident of the above mentioned address and am BA pass. We are 3 brothers and all are married and living separately in our houses. Adjoining my house is the house of my elder brother Sukhdev Singh and next to that is the house of my elder brother Sucha Singh. That on dated 08.05.2023, my brother Sucha Singh had sown fodder on my land measuring 2 kanals and on the same day at about 2pm, in the afternoon I was present at my house that I heard the voices of my brother Sucha Singh and his son Tejinderpal Singh @ Happy hurling abuses and raising lalkaras. When I checked after coming into the street my brother Sucha Singh armed with a daang (stick) and his son Tejinderpal Singh @ Happy was standing unarmed. When I asked them why there were abusing us he said that they have sown the fodder crop in their own land and I am defaming them. By that time even my son Kamaldeep Singh came to the street and



then Sucha Singh raised lalkara that catch hold of them, we will tell them the consequences of getting into land dispute with us. During this time, Sandeep Kaur wife of Tejinderpal Singh @ Happy came out of the house with the licensed double barrel 12 bore gun of her father in law Sucha Singh. And she handed over her the gun to her husband saying that it is better to kill than be killed, on this Sucha Singh raised lalkara that shoot him now what are you looking at. Then Tejinderpal Singh @ Happy with the intention to kill me, shot at me with the 12 bore double barrel which hit me on my left leg and then Tejinderpal Singh @ Happy shot at me again which hit me on my right leg slightly before my knee. I raised the alarm "maar ditta maar ditta" then my son Kamaldeep Singh came forward to help me then Sucha Singh and his son Tejinderpal Singh @ Happy pushed him onto the field on the lower side and fled from the spot with their respective weapons. I fell on the spot due to being shot at then my son Kamaldeep Singh who watched everything happening before his eyes, arranged for a vehicle and took me to the Government Hospital Ferozepur from where the doctors referred me to Guru Gobind Singh Medical College Faridkot and therefore, we came to Guru Gobind Singh Medical College Faridkot for treatment where the doctor gave me first aid and admitted me in the hospital. That I went to Wadhwa Hospital Shri Muktsar Sahib with my own free will where I got admitted and currently under treatment. The reason of enmity that Tejinderpal Singh @ Happy son of my brother Sucha Singh plowed my 2 kanal land voluntarily and on me stopping him from doing so, with the intention



to kill me, shot at me twice and also assaulted my son. That strict legal action be taken against Sucha Singh, his son Tejinderpal Singh @ Happy and his wife Sandeep Kaur. I have got my statement recorded which is correct and I have verified the same.”

5. Learned State counsel and learned counsel for the complainant have submitted that the complainant received two firearm injuries, which could not be self inflicted and it is a matter of record that he was immediately removed to the hospital, where he remained hospitalized. However, learned State counsel, on instructions, has not been able to dispute that the video footage of the occurrence in question, which has been referred to by the learned counsel for the petitioner, is indeed part of the challan. The stage of the trial has also not been disputed by the learned State counsel, on instructions.

6. I have heard learned counsel for the parties and perused the relevant material on record.

7. The petitioner has now been in custody since 15.05.2023. There is no likelihood of the trial concluding in the near future as an application under Section 319 Cr.P.C. has now been moved for summoning of additional accused. In the facts and circumstances as enumerated hereinabove, this Court thus deems it fit to extend the concession of bail to the petitioner. The petition as such is allowed and the petitioner is admitted to bail to the satisfaction of the trial Court/Duty Magistrate. However, it is made clear that anything



observed hereinabove shall not be construed to be an expression of opinion on the merits of the case.

8. Needless to add here, in case the petitioner misuses the concession of bail, the State would be at liberty to approach this Court for cancellation of bail in the instant case.

(MANJARI NEHRU KAUL)
JUDGE

July 24, 2024
rps

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