

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

207 CRM M-13801 of 2021 (O&M)
Date of Decision: 02.02.2024

Dinesh Kumar @ Gona ...Petitioner
Versus
State of Punjab ... Respondent

CORAM : HON'BLE MR. JUSTICE N.S.SHEKHAWAT

Present : Mr. Manjinder Singh Saini, Advocate, for the petitioner.
Mr. Mohit Chaudhary, AAG, Punjab.
Mr. J.S. Kang, Advocate, for the complainant.

N.S.SHEKHAWAT, J. (Oral)

1. The petitioner has filed the instant petition under Section 439 of the Cr.P.C. with a prayer to grant a regular bail in case FIR No.0167 dated 28.07.2013 registered under Sections 302, 148, 149 of IPC and Sections 25/27/54/59 of Arms Act at Police Station City Kapurthala, District Kapurthala.
2. The FIR in the present case was registered on the basis of the statement made by Madan Chopra son of Vijay Kumar Chopra and the same has been reproduced as under:-

“Statement of Madan Chopra son of Vijay Kumar Chopra, caste Khatri, resident of House No. 86, opposite Shalamar Bagh Gali, Kapurthala Police Station City Kapurthala, aged about 35 years.
Stated that I am resident of above noted address and doing the work of Finance with my brother Manoj Kumar alias Deepa. We have office in our house in street going from Shalamar Bagh to Jalokhana.

Yesterday, in the evening at about 9.35 PM, I along with my father Vijay Kumar was standing outside of my house, then suddenly my brother Manoj Kumar alias Deepa came from Malukana Mohalla Street in injured condition by raising noise of "Marditta Marditta". At that time the lights of the street were on and Raj Kumar alias Raja son of Hazara Ram caste Balmik, resident of Bhagatpur, Police Station Kotwali Kapurthala and Poppy Sharab Wala resident of Jalandhar armed with pistols were chasing my brother Manoj Kumar alias Deepa and behind them, Gurpreet Singh alias Gopi son of Dara Singh resident of Mushakved, who kept a Datar on his motorcycle, was encouraging Poppy and Gurpreet Singh alias Gopi. My brother Manoj Kumar while raising noise of "Mardita Martida" entered into the Janki Dass Mandir Street. I and my old aged father came forward to save him. Vicky resident of Baba Deep Singh Nagar armed with pistol, Panku alias Pankaj Kumar s/o Suridner Pal, resident of Guru Teg Bahadur Nagar, Jagga son of Massa Singh resident of Guru Teg Bahadur Nagar and Sunny alias Bhura alias Barabjit Singh resident of Seenpura and Sukha alias Katta resident of Sundar Nagar and Arju son of Naresh Kumar alias Bittu resident of Mohalla Banian armed with Datars and baseball were standing in the Janki Daas Mandir Street and encircled my brother. Raja resident of Bhagtupur and Poppy resident of Jalandhar and Vicky had fired gunshots at my brother. Manoj Kumar alias Gopi and Gurpreet Singh alias Gopi, who were riding on motorcycle had given blow with Datar on the head of my brother, as a result of which, he fell on the ground after getting seriously injured. In the meantime,

my father Vijay Kumar came forward, but Panku and Arju had pushed my brother and my father. My father had fallen on the ground and died. These all persons had given injuries to my brother Manoj Kumar alias Deepa while he was lying on the ground. Thereafter, on hearing the noise of “Mardita Mardita”, the public gathered there as there was “Jagrata” in the Mandir. Thereafter, all ran away from the spot along with their weapons and motorcycle. The entire incident was also seen by my mother Smt. Asha. Thereafter, we arranged the vehicle and took my brother Manoj Kumar alias Deepa and my father to Civil Hospital, Kapurthala for treatment, where the doctors had declared both as dead. The motive behind the incident was that earlier an enmity was going on between we two brothers and them and cases were also registered against each other, therefore, the said persons had attacked. Strict legal action be taken against them. Due to the sudden death of my father and brother, I was under shock and was waiting for my relatives and now I along with my friend informed you and got recorded my statement. Heard, it is correct. The dead bodies of my brother and father are kept in the dead house of Civil Hospital, Kapurthala.

Sd/- Madan Chopra, attested by Sd/- Bharat Masih, SI, SHO, Police Station City Kapurthala dated 28.07.2013”.

3. Learned counsel for the petitioner contends that in the present case, 09 persons were nominated as accused by name, however, the petitioner was not named as an accused. Further, the petitioner was nominated as an accused only on the basis of the confessional statement made by the co-accused in police custody. He

further contends that in the year 2014, the petitioner had received a gunshot injury over his left lateral region of neck and due to this, the petitioner is bed ridden. Learned counsel further contends that the petitioner was declared as proclaimed offender in the present case on 07.02.2015. He further contends that the petitioner formally arrested in the present case on 11.12.2020 and the challan has already been presented against him. He further contends that the prosecution has delayed the trial in the present case and no purpose will be served by keeping him behind the bars.

4. On the other hand, a status report had been filed by way of the affidavit of the DSP, Sub-Division Kapurthala, District Kapurthala and the same was taken on record.

5. Learned State counsel submits that it is a case of double murder and the petitioner had actively participated in the commission of the crime with the other co-accused. Learned counsel further submits that the petitioner and other co-accused had hatched a conspiracy and got two persons eliminated, i.e., Manoj Kumar alias Deepa and Vijay Kumar, i.e., brother and father of the complainant. Learned State counsel further submits that besides present case, the petitioner is also accused in the following cases:-

“(1) FIR No. 166 dated 03.10.2006 under Sections 326, 324, 148 and 149 of IPC, Police Station Adampur, District Jalandhar.

(2). FIR No. 86 dated 16.05.2012 under Sections 25/54/59 Arms Act, Police Station Adampur, District Jalandhar.

(3). FIR No. 166 dated 21.09.2019 under Sections 336/160 IPC and 25/27 Arms Act, Police Station Adampur, District Jalandhar.

(4). FIR No. 146 dated 31.12.2008 under Sections 323, 341, 324, 148 and 149 IPC, Police Station Bhogpur, District Jalandhar.

(5). FIR No. 140 dated 27.11.2012, under Sections 302, 323, 324, 307, 148, 149 and 120-B IPC, Police Station Bhogpur, District Jalandhar.

(6). FIR No. 46 dated 02.04.2013 under Sections 307, 148, 149 IPC and 25/54/59 Arms Act, Police Station Adampur, District Jalandhar.

(7). FIR No. 40 dated 26.02.2014 under Sections 302, 307, 324, 148, 149 and 120-B IPC and 25/27/54/49 of Arms Act, Police Station Basti Bawa Khel, Jalandhar”.

6. Still further, the petitioner was declared as a proclaimed offender on 07.02.2015 and could be arrested in the present case on 11.12.2020. He further contends that in case the petitioner, who is a hardened criminal is granted the concession of bail by this Court, he may abscond from the process of law.

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

8. From the record, it is apparent that the petitioner had hatched a conspiracy with other accused and in pursuance to the said conspiracy two persons, namely, i.e., Manoj Kumar alias Deepa and

Vijay Kumar, brother and father of the petitioner were killed brutally and in an inhuman manner. Apart from the present case, the petitioner is facing charge in other murder cases as well. The police has found sufficient incriminating evidence against the present petitioner and, in case, he is granted the concession of bail, he may threaten the witnesses of the prosecution. Apart from that, the petitioner was declared as a proclaimed offender in the present case and could be arrested in the present case on 11.12.2020, i.e., after a period of about 5 years. Thus, keeping in view the gravity of the offence and also the fact that the petitioner, who is a hardened criminal, may threaten the witnesses of the prosecution, the present petition is ordered to be dismissed.

9. Since, the petitioner is in custody since 11.12.2020, the trial Court is directed to conclude the trial expeditiously, preferably, within a period six months from the next date of hearing fixed before it.

02.02.2024
amit rana

(N.S.SHEKHAWAT)
JUDGE

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