IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

SR. No.226

CRM-M-12829-2024
Date of decision:19.03.2024

Avtar Singh @ Jagtar @ Tara

…Petitioner

Versus

State of Punjab

…Respondent(s)

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

Present: Ms. Sukhpreet Kaur Grewal, Advocate for the petitioner.

Mr. M.S. Bajwa, DAG, Punjab.

N.S. SHEKHAWAT, J.

1. The present petition has been filed under Section 439 Cr.P.C. with a prayer to grant regular bail to the petitioner in case FIR No.68 dated 17.06.2018 registered under Sections 302/34/120-B IPC and Sections 25/27/54/59 of the Arms Act at Police Station Phul, District Bathinda.

2. The FIR in the present case was registered on the statement made by complainant-Megh Singh @ Megha and the same has been reproduced as under:-

> *"Statement of Megh Singh alias Megha son of Bagga Singh, Caste Jat, resident of Gill Road, Phul, aged about 50 years, Mobile No.9417707976, stated that I am resident of the above mentioned address and an agriculturist and also working at poultry farm at the residence. Out residence is in the fields. We are 8 brothers and sisters in total i.e. 2 brothers and 6 sisters and all are married. Today on 17.06.2018 at around 11.00*

MUKESH KUMAR SALUJA
2024.04.03 12:44
I attest to the accuracy and
integrity of this document
High Court Chandigarh

O'clock, I and my brother Hardev Singh were present at my home with children. Then two unknown persons on a motor bike came to the gate of our house and called us and said that they were there to take the eggs. My brother Hardev Singh went to the eggs store with both of them. I also went to the gate of the house for some work. When I came in front of store, I heard the sound of gunshot fire from the eggs store. I saw that unknown persons had fired another shot at my brother Hardev Singh and both the unknown persons got on a motor cycle and sped away towards the link road of Gill Kalana. The distance to the eggs store from the gate of our house is about 50 yards. My brother Hardev Singh had died at the spot. I made a noise and on hearing my noise, my son Gurkirat Singh and my uncle's son namely Banta Singh son of Mewa Singh, resident of Phul also came on the spot. We arranged a vehicle and brought Hardev Singh to Civil Hospital Rampura, where doctors declared my brother Hardev Singh dead. The statement has been recorded by you, heard and it is correct. Action should be taken against unknown motorcycle riders. These unknown persons have killed my brother Harder Singh by firing gunshots. Sd/- Megh Singh verified by: Gurmail Singh SI, SHO Police Station Phul, dated 17.06.2018"

3. Leaned counsel for the petitioner contends that in the present case, FIR was initially registered against two unknown persons and the name of the petitioner was not mentioned in the FIR. Even no physical description of the alleged assailant was mentioned in the FIR. On 26.07.2018, the

MUKESH KUMAR SALUJA
2024.04.03 12:44
I attest to the accuracy and
integrity of this document
High Court Chandigarh

supplementary statement of Megh Singh was recorded and he alleged that Hardev Singh had been murdered by Sukhpreet Singh @ Budha and Amandeep Singh @ Amna. Again on 12.08.2018, another supplementary statement was recorded to the effect that Yadwinder Singh @ Yadu was arrested by Patiala Police, wherein he had confessed that he was involved in the crime. Another supplementary statement was recorded on 15.10.2018 and the complainant stated that his brother Hardev Singh @ Gogi has been killed by Aman Kumar @ Amana, Yadwinder Singh @ Yadu, Jagtar Singh @ Tara, petitioner and Sukhpreet Singh @ Budha in conspiracy with Gurbax Singh. Learned counsel further contends that the police could not collect any evidence against the present petitioner during the course of investigation. Apart from that, the complainant has been examined as PW-1, Gurkirat Singh as PW-2 and Bant Singh as PW-3, however none of them has supported the case of prosecution and their testimonies were filed as Annexures P-2 to P4. Learned counsel further contends that two co-accused Gurbax Singh and Yadwinder Singh @ Yadu have already been granted the concession of bail by this Court. The petitioner was arrested on 19.01.2017 and was taken on production warrant in this case on 27.06.2018. Thus, the petitioner is in custody for the last several years and deserves the concession of the bail.

4. On the other hand learned State Counsel has placed on record the custody certificate, and as per the said custody certificate the petitioner has suffered custody of 1 year, 1 month and 23 days in the present case. Apart from that, the following under trial cases are pending against him:

(i) FIR No.83/2016 dated 09.09.2016 Us 307,411,34 IPC, Section 25/27/30/ 54/59 Arms Act at Police Station Phul;

MUKESH KUMAR SALUJA
2024.04.03 12:44
I attest to the accuracy and
integrity of this document
High Court Chandigarh

(ii) FIR No.40/2016 dated 18.05.2016 under Section 379-B IPC at Police Station Bajakhana;

(iii) F.I.R. No. 127/2016 dated 10.08.2016 under Sections 302/364/473/109/115/148/149 IPC and Section 25 of Arms Act at Police Station Sadar Tarn Taran;

(iv) FIR No.31 dated 30.03.2014 under Sections 302/392/341/506/148/149/120-B, IPC at Police Station Jaito;

(v) FIR No.35 dated 30/05/2023 under Section 21 of the NDPS Act and Section 25 of the Arms Act registered at Police Station Mehal Kalan

(vi) FIR No.103 dated 19/12/2013 under Sections 306/120-B/34 IPC at Police Station Ajitwal.

The petitioner has been convicted in the following cases:

(i) FIR No.61 dated 25.09.2012, U/S 458/506/324/148/323/149 IPC at Police Station Badhni Kalan;

(ii) FIR No.50 dated 03.06.2015 U/S 302/404/341/506/ 148/149/ 120-B IPC Police Station Mehna;

(iii) FIR No. 117/2011 dated 12.10.2011 U/S 382/148/149 IPC and Sections 25/27/54 /59 of the Arms Act at Police Station Nihal Singh Wala;

(iv) FIR No.137 dated 10.10.2011 U/S 382/341/427/148/149 IPC at Police Station City South Moga;

(v) FIR No.294 dated 05.10.2016, U/S 174-A IPC at Police Station Ellenabad.

(vi) FIR No. 23 dated 20.02.2016 U/S 302/307/120-B/506/201 IPC and Sections 25/27 of the Arms Act at Police Station Sadar Ludhiana.

5. The petitioner has been acquitted/discharged in the following cases:-

(i) FIR No.34 dated 10.05.2016 U/S 382 IPC and Section 25 of the Arms Act at Police Station S.G.N.Dev Trml Plant;

(ii) FIR No.88 dated 08.10.2013, U/S 302/34 IPC and U/S 25/54/59 of the Arms Act and Sections 3/4 of the SC/ST Act, PS Mehna;

(iii) FIR No.63 dated 12.06.2011, U/S 364/325/148/149 IPC and Sections 25/27 of Arms Act, PS Mehna;

MUKESH KUMAR SALUJA
2024.04.03 12:44
I attest to the accuracy and
integrity of this document
High Court Chandigarh

(iv) FIR No. 12 dated 17.01.2016, U/S 216/302/307 IPC and Sections 25/27/54/59 of the Arms Act at Police Station Ellenabad;

(v) FIR No. 18 dated 07.02.2013 U/S 382/34 IPC at Police Station Baghapurana;

(vi) FIR No.66 dated 12.10.2011, U/S 395/399/307/402/148/149 IPC and Sections 25/54/59 of the Arms Act, Police Station Badhni Kalan;

(vii) FIR No.117/2022 dated 29/07/2022, Sections 384/120-B IPC and Section 25 of the Arms Act, Police Station Sirhind;

6. The petitioner has been taken on production warrant in the following cases:

(i) FIR No.284/2013 dated 04.09.2013, Sections 332/224 IPC at Police Station-City Faridkot; and

(ii) FIR No.105/2012 dated 05.05.2012 Sections 341/323/506/148/149/120-B/307 IPC at Police Station City Faridkot.

7. Learned counsel for the State of Punjab submits that the present petitioner is a gangster and is involved in several other cases. Even though the petitioner was arrested in some other case on 19.01.2017, but in the present case, the petitioner remained in custody for about 01 year 01 month and 23 days only. Apart from that, the petitioner may threaten private/official witnesses of the case and he may not be released on bail.

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

9. In the present case, it is apparent from the details of the aforesaid cases that the petitioner is a hardened criminal, who is involved in several murder cases. Apart from that, even he was facing prosecution in case under Narcotic Drugs and Psychotropic Substances Act as well. Apart

MUKESH KUMAR SALUJA
2024.04.03 12:44
I attest to the accuracy and
integrity of this document
High Court Chandigarh

from that the petitioner was also declared as a proclaimed offender and one FIR No.294 dated 25.10.2016 under Section 174(A) IPC, Police Station Ahlenabad was also registered against him. Thus, it is apparent that the petitioner may abscond from the process of law. Since the petitioner is having a criminal background, there is every likelihood that the official/private witnesses in the present case may not depose fearlessly before the trial Court.

10. In view of the above, the present petition is dismissed.

(N.S. SHEKHAWAT)
JUDGE

19.03.2024
mks

Whether Speaking/Reasoned: YES / NO
Whether Reportable: YES / NO

MUKESH KUMAR SALUJA
2024.04.03 12:44
I attest to the accuracy and
integrity of this document
High Court Chandigarh