

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

225

CRM-M-19382-2024
Date of decision: 29.4.2024

SURINDER SINGH @ HAPPY @ GULLI

....Petitioner

Versus

STATE OF PUNJAB

.....Respondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present:- Mr. Sandeep Verma, Advocate for the petitioner.

Mr. Amit Rana, Sr.DAG, Punjab.

MANJARI NEHRU KAUL, J.

1. The petitioner is seeking the concession of bail under Section 439 Cr.P.C in case FIR No. 48 dated 06.03.2021 under Sections 302, 451, 425, 323, 452, 148, 149 IPC and Sections 25/27 of Arms Act registered at Police Station Division No.8, Jalandhar, Dist. Jalandhar.
2. Learned counsel for the petitioner contends that he has been falsely implicated in the case in hand along with other co-accused for allegedly being involved in the murder of the deceased Gurmeet. While drawing the attention of this court to FIR annexed as Annexure P-1, learned counsel submits that a bare perusal of the same reveals that he was

neither named therein, nor any role attributed to him. Learned counsel further submits that the petitioner came to be nominated only on the basis of a disclosure statement allegedly suffered by one Harpreet Singh @Happy who was in custody in some other case.

3. Learned counsel for the petitioner has submitted that the petitioner being innocent, and being falsely implicated in the case in hand, is evident from the deposition of the two material witnesses i.e complainant PW-1 Surinder Pal (father of the deceased) and PW-2 Ritu Kumari (employee of the deceased and alleged eye witness) as both of these witnesses had failed to support the case of the prosecution, resulting in, they being declared hostile. It has been submitted that the petitioner has been in custody since 24.04.2021; the trial is going to take considerable time to conclude as only two out of the 33 prosecution witnesses have been examined till date, and further, in light of the prosecution witnesses turning hostile, his further incarceration would serve no useful purpose.

4. Per contra Learned state counsel while opposing the prayer and submissions made by the counsel opposite on instructions from SI Baljeet Singh has submitted that no doubt when the FIR in question was lodged, only accused, Puneet and Narinder had been named therein however it was also mentioned that a total of five persons had come to the shop of the deceased and after the occurrence all of them fled away from the spot. However, during investigation, it came to light that one of the two persons i.e Harpreet Singh, who was suspected to be involved in the crime in question was not even present as he was in custody in some other case, it was during his interrogation, the name of the petitioner surfaced leading to a challan being presented against him.

5. Learned counsel for the State has further reiterated, on instructions from SI Baljeet Singh, that no doubt two witnesses including the complainant as well as the eyewitness PW-2 had been declared hostile but there was a CCTV footage, wherein the presence of the petitioner stood reflected during the occurrence in question, further it was not the case of the defence that it was a doctored footage. It has also been submitted that the complainant i.e father of the deceased, not identifying the petitioner, was for the reason that he was not a witness to the occurrence which took place inside the shop as he had himself stated in the FIR that he was standing outside the shop i.e place of occurrence when he heard some fire shots from inside and thereafter saw 4-5 persons running away. Hence in the circumstances, PW-2, the alleged eye witness turning turtle, would not, in any manner, create any dent in the prosecution.

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

7. Before, proceeding further, It would be apposite to reproduce the relevant extract of the FIR in question

“..... Statement of Surinderpal Singh son of Inderjeet Singh, resident of House No.88, New Kailash Nagar, Jalandhar, aged about 73 years, it is stated that I am resident of above address and I have a Rubber Braiding Factory at Saipur Road, Sodal Road, Jalandhar, and I have three children. My second son is Gurmeet Singh alias Tinku aged about 40 years, who works in PVC and Finance whose shop is called Baba PVC at Preet Nagar. Today, I was standing outside of my son's shop around 1:25 PM for an important job, that five persons came in a vehicle and they entered into the shop quick firing with pistol in hands,

my son Gurmeet Singh and his driver was present in the shop. My son's partner Harvinder also came at late night. That those people fired inside our shop which I heard my son's scream. That after firing inside the shop, within few minutes these persons run away from the shop sitting in their vehicle. I and Harwinder Kumar noticed two persons while they were running. A boy Punit Sharma son of Rajinder Kumar, resident of House No. 121, Aman Nagar, Jalandhar and the other one Narinder Sharma alias Lali son of Subhash Chander resident of Guja Peer Road, Jalandhar was, and the other three persons could not be identified. Who can be identified if be present in front. Mohit Kumar son of Kuljeet Kumar also came there at late night. When we went to the first floor, we saw that my son was lying on the floor due to shot and bleeding a lot. With the help of other people, we took my son to Capital Hospital, where Doctor Sahib declared my son as dead. Because of old grudge the said persons have killed my son. Legal action should be taken against them.....”

8. In the light of the allegations levelled in the FIR, this Court does not find any merit in the submissions made by the counsel that since the complainant had not identified the petitioner and was declared hostile, he had been falsely implicated in the instant case. No doubt PW-2, who was a material witness did turn turtle, but the CCTV which was installed inside the shop captured the entire occurrence wherein as per the learned State counsel, the petitioner's presence and participation stands reflected in the crime in question.

9. In the facts and circumstances as enumerated hereinabove coupled with the criminal antecedents of the petitioner, petitioner is not entitled to be extended the concession of bail.

Accordingly, the Instant petition is dismissed.

10. 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.

April 29, 2024
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(MANJARI NEHRU KAUL)
JUDGE

Whether speaking/reasoned	Yes
Whether reportable:	Yes/No