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

CRM-M-24532-2024
Date of Decision: 24.07.2024

Gurpreet Singh @ Gopi

....Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE HARSH BUNGER

Present : Mr. Abhinav Gupta, Advocate
for the petitioner.

Mr. Nirmaljit Singh Diwana, Sr. DAG, Punjab.

Mr. S.P.S. Sidhu, Advocate
for the complainant.

HARSH BUNGER, J. (ORAL)

1. Petitioner (Gurpreet Singh @ Gopi) has filed this second petition under Section 439 Cr.P.C. for grant of regular bail to the petitioner in case FIR No.173, dated 11.10.2020, registered under Sections 302, 506, 148, 149 and 120-B of the Indian Penal Code, 1860 and Sections 25 and 27 of the Arms Act, at Police Station Bhikhiwind, District Tarn Taran.
2. The earlier petition (**CRM-M-41319-2021**) was dismissed by Co-ordinate Bench of this Court vide order dated 12.10.2021 (Annexure P-11).

Custody certificate dated 23.07.2024 of the petitioner has been

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filed by learned State counsel in Court today, which is taken on record, subject to all just exceptions.

4. Status report by way of an affidavit of Mr. Preetinder Singh, PPS, Deputy Superintendent of Police, Sub Division Valtoha, camp at Bhikhiwind, District Tarn Taran has been filed on behalf of respondent/State of Punjab, which is already on record.

5. Succinctly, the abovementioned FIR was registered on the statement of complainant-Danesh Kumar son of Paramjit Kumar, resident of Khalra Mandi, Police Station Khalra, District Tarn Taran, who stated that on 11.10.2020 at about 06:00/07:00 p.m., he alongwith Mandeep Kumar @ Monu son of Paramjit Kumar (brother-in-law of complainant) and few other persons namely Paramjit Singh son of Tirath Ram, brother of the father-in-law of complainant and one Deepak Kumar son of Vijay Kumar (employee of petrol pump) were sitting on the petrol pump-Raj Kumar Brothers Petrol Pump, Khem Karan Road, when Satwinder Singh (mentioned as Satinder Passi in the FIR) armed with *.315 bore rifle*, Gurpreet Singh @ Gopi (petitioner) armed with pistol, Charanjit Singh armed with *12 bore riffle*, Harbhajan Singh son of Banta Singh armed with *12 bore rifle*, Surjit Singh son of Harbhajan Singh armed with *datar* alongwith 15-20 unidentified armed persons came at the passage adjoining the petrol pump, regarding which there was a dispute between the parties. It is stated that when complainant, alongwith Mandeep Kumar @ Monu, came forward then the petitioner-Gurpreet Singh @ Gopi fired a direct shot from his pistol at Mandeep @ Monu which hit in his right flank and Mandeep @

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Monu fell down. Gurpreet Singh @ Gopi (petitioner), alongwith assailants fled away from the spot with their respective weapons while firing shots and giving threats. Complainant along with Deepak Kumar arranged for a vehicle and took Mandeep Kumar to Dhawan Nursing Home, Bhikhwind, where Mandeep Kumar was declared as dead. As per the FIR, the motive behind the occurrence was a dispute with respect to passage adjoining the petrol pump, which leads to the colony, wherein 16 feet area allegedly belongs to the complainant, but Satwinder Singh claimed the same to be his land. The said dispute led to the murder of Mandeep Kumar.

6. Learned counsel for the petitioner submits that the petitioner has been falsely implicated in the present case. It is submitted that a group of assailants headed by Mandeep Kumar @ Monu (deceased), who was brother-in-law of the complainant, armed with deadly weapons, attacked the petitioner and his father Satwinder Singh. It is further submitted that Mandeep Kumar @ Monu (deceased) was aiming gun at Satwinder Singh (father of the petitioner), on seeing this, the petitioner ran towards the assailants and in order to save his father, petitioner caught hold the hand of Mandeep Kumar @ Monu and during the scuffle, the trigger of the Mandeep Kumar @ Monu's gun got pressed by him only, due to which the deceased suffered a bullet injury. Learned counsel further contends that in the present case, the first SIT (Special Investigation Team) disbelieved the versions' of the complainant as alleged in the FIR and all the material improvements made by him in the supplementary statements. It is further submitted that the SIT, on the basis of CDR's, CCTV footage and Tower location's, supported

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the version of the petitioner-Gurpreet Singh @ Gopi. Petitioner has also raised the plea of right of private defence under Section 100 of the Indian Penal Code. It is further submitted by learned counsel for the petitioner that the petitioner is in custody since 14.11.2020 and has undergone 03 years, 08 months and 09 days as on 23.07.2024. It is stated that investigation in the present case is complete; challan has been presented on 09.02.2021 and even charges have been framed on 07.03.2024, therefore, the trial is likely to take some time to conclude and no useful purpose would be served by keeping him behind the bars any further. Learned counsel further submits that the petitioner herein is ready to abide by all the conditions as may be imposed by this Court or by the trial Court, accordingly prayer for grant of regular bail is made.

7. Learned State counsel as well as learned counsel for the complainant have opposed the plea of petitioner for grant of regular bail on the ground of seriousness and gravity of the offence, however, it is not disputed that the challan has been presented in this case and even charges have been framed. Learned State counsel further submitted that the petitioner is involved in heinous offence of murder of one Mandeep Kumar @ Monu and he is not entitled to the concession of regular bail. Learned State counsel further states that petitioner does not have clean antecedents and there is an apprehension that in the event of grant of bail, the petitioner may influence the witnesses or may even abscond to delay the trial. Accordingly, prayer has been made for dismissal of the present petition.

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



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paper book, status report as well as the custody certificate of the petitioner handed over by learned State counsel.

9. In the instant case, the petitioner is the main accused who is facing serious and grave charges. Although, petitioner has been in custody since 14.11.2020; however, in my considered opinion, he cannot be released on bail solely on the basis of his long incarceration or on the ground that the trial is likely to take some time to conclude; especially when the petitioner is alleged to have committed a serious/heinous offence of murder of one Mandeep Kumar @ Monu (brother-in-law of the complainant). In ***Kalyan Chandra Sarkar v. Rajesh Ranjan @ Pappu Yadav, 2004(2) RCR (Criminal) 254***, Hon'ble Apex Court held as under:

"The condition laid down under Section 437(1)(i) is sine qua non for granting bail even under Section 439 of the Code. In the impugned order it is noticed that the High Court has given the period of incarceration already undergone by the accused and the unlikelihood of trial concluding in the near future as grounds sufficient to enlarge the accused on bail, in spite of the fact that the accused stands charged of offences punishable with life imprisonment or even death penalty. In such cases, in our opinion, the mere fact that the accused has undergone certain period of incarceration (three years in this case) by itself would not entitle the accused to be enlarged on bail, nor the fact that the trial is not likely to be concluded, in the near future either by itself or coupled with the period of incarceration would be sufficient for enlarging the appellant on bail when the gravity of the offence alleged is severe and there are allegations of



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tampering with the witnesses by the accused during the period he was on bail."

10. Petitioner is involved in other case(s) also and furthermore, when the accused is facing serious charges, he may develop temptation to jump the bail. The apprehension expressed by State that if released on bail, there is every likelihood of the petitioner trying to tamper with prosecution evidence by giving threats and inducements to the prosecution witnesses and absconding even to prolong the trial, cannot be brushed aside lightly.

11. Accordingly, the present petition under Section 439 Cr.P.C. seeking grant of regular bail to the petitioner (Gurpreet Singh @ Gopi) in case FIR No.173, dated 11.10.2020, registered under Sections 302, 506, 148, 149 and 120-B of the Indian Penal Code, 1860 and Sections 25 and 27 of the Arms Act, at Police Station Bhikhiwind, District Tarn Taran; is dismissed.

12. Nothing stated here-in-above shall be construed as an expression of opinion on the merits of the case and the trial would proceed independently of the observations made in the present case which are only for the purpose of adjudicating the present bail petition.

13. However, the trial Court is directed to make an earnest effort to expedite the trial.

14. All pending application(s), if any, shall also stand disposed of.

24.07.2024
Himani

(HARSH BUNGER)
JUDGE

Whether speaking/reasoned:

Yes/No

Whether reportable:

Yes/No