

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-28383-2024
Reserved on: 16.12.2024
Pronounced on: 19.12.2024

Palvinder Singh @ Pinda ...Petitioner

Versus

State of Punjab ...Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. Harpreet Singh Multani, Advocate and
Mr. Harmanpreet S. Mander, Advocate
for the petitioners.

Mr. Akshay Kumar, A.A.G., Punjab.

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
32	21.03.2024	Sadar Kapurthala	307, 353, 186, 506, 148, 149 IPC and 25/27 of Arms Act

1. The petitioner incarcerated in the FIR captioned above came before this Court under Section 439 CrPC seeking regular bail.

2. Per paragraph 6 (ix) of the bail application and 16 of the short reply, the accused has the following criminal antecedents:-

Sr. No.	FIR No.	Date	Offenses	Police Station
1.	122	07.11.2022	323, 324, 341, 148, 149 IPC	Sadar Kapurthala
2.	3	18.03.2024	8, 18, 28 of NDPS Act	NCB Chandigarh

3. The petitioner's counsel made the following submissions:-

"1. That it is an admitted fact that the present incident occurred at around 09:00 PM on 20.03.2024 but the NCB Officials got this FIR gave information for registration of the present FIR in the Police Station Sadar Kapurthala on the next day on 21.03.2024 at 03:00 PM.

2. That the Petitioner has been named only in the statement of his maternal uncle Inderjit Singh who informed the police that the Petitioner is sitting in the Baleno Car along with co-accused Iqbal Singh. Even as per the case of the NCB the firing has been done from the licensed weapon of Iqbal Singh (co-accused) therefore no injury or role has been attributed to the Petitioner. It is the case of the NCB that at the time of this occurrence only the Petitioner and

Iqbal Singh were present in Baleno Car bearing No. PB08DY6432 which belongs to Iqbal Singh.

3. That the case of the Petitioner is that the NCB Officials were in civil uniform when they come to conduct this raid and they were not accompanied by any police officials who were in uniform. This fact can be proved from the replies filed by both the States and the NCB and the Petitioner will demonstrate the same in the following paragraphs.

4. That in the present FIR, the complainant named everyone who is part of a police team namely SI Paramjit, SI Sonu Kumar, Constable Mukesh Kumar, Constable Vishal Pandey, Constable Mijan Tomar Biswari and also named the maternal uncle of the Petitioner namely Inderjit Singh and one person namely Vishal from the Courier Service but interestingly they do not name the two police officials of the local police chowki Kalan Sanghiyaan, who were accompanying them as per the FIR. Their name even did not surface in the first reply dated 10.07.2024 filed by the State of Punjab vide affidavit of Harpreet Singh, DSP, Sub Division, Kapurthala. It is further relevant to mention herein that the name of the two local police officials also did not surface in the first reply of the NCB dated 15.07.2024 filed in the present petition vide affidavit of Kuldeep Tomar, Intelligence Officer.

5. As per the procedure laid down in the eyes of law, the NCB Police Officiare were bound to inform the local police station and they are bound to register a DDR in regard to any operation or arrest they want to make in the jurisdiction of the local police station but they did not got any DDR registered in regard to their search in the jurisdiction of Police Station Sadar Kapurthala at the Police Station Sadar Kapurthala. It is only after the Petitioner raised this point that they were not accompanied by any local police station and they were mistakenly fired upon by the co-accused as the Petitioner as they were having threat and he got an FIR registered in the same police station 3 days back, the NCB in connivance with the Punjab Police got a forged DDR registered vide Report No. 12 dated 20.03.2024 at Police Post Kalan Sanghiyaan. Even as per the affidavit of the SSP, Kapurthala dated 02.10.2024, she has admitted in Para No.4 that the Roznamcha at the Police Chowki Kalan Sanghiyaan is a manual Roznamcha which is not attached to the CCTNS System. She has further stated that CCTNS System is running online daily in Police Stations of District Kapurthala but not in Police Post. It is further relevant to mention herein that as per the Panjab Police Rules, 11.67, 11.68, 22.47, 22.48, the Roznamcha has to be a double paged Roznamcha and a vernacular copy of every DDR has to be sent to the Office of the Superintendent of Police and is to be kept by the Vernacular Copy Branch as record but the SSP in his affidavit is silent on the fact that this manual Roznamcha is not double paged or single paged or whether the vernacular copy of the DDR No. 12 dated 20.03.2024 is sent to the vernacular copy branch in accordance with the Punjab Police Rules, 1934 and the same is kept as part of record. This DDR which has come into existence after this occurrence is nothing but an attempt to rectify the shady

investigation conducted by the Punjab Police in connivance with the NCB in order to falsely implicate the present Petitioner. That the NCB filed a second reply vide an affidavit dated 31.07.2024, in which they have attached the true translated copy of DDR No. 12 dated 20.03.2024 as Annexure R-1 and perusal of the same would reveal that it shows a time of 07:15 PM and further says that the complainant had a conversation with the Incharge Sarabjeet Singh in regard to the identification of the accused in the photoclip on mobile and for taking employees present at the police post for identification, on which ASI Lakhwinder Pal No. 908 and ASI Malkeer Singh No. 1147/Kapurthala were taken along.

6. It is pertinent to mention herein that the DDR names two Police Officials ASI Lakhwinder Singh and ASI Malkeet Singh and also SI Sarabjeet Singh who is an Incharge. All these police officials are very well known to the Petitioner and the co-accused as the FIR No. 29 dated 17.03.2024 which was registered by the Petitioner's cousin against the persons who wants to kill him and his brothers was registered by SI Sarabjeet Singh (Annexure P-3 Page 26) and ASI Lakhwinder Pal No. 908/Kapurthala was also named in the FIR registered by the Petitioner as a Member of the Team along with SI Sarabjeet Singh (Annexure P-3 Page 26). This fact completely falsifies this DDR which is registered way after the occurrence just to help the NCB.

7. It is further relevant to mention herein that in the second reply dated 31.07.2024, the NCB also attached the 161 Statements of the police officials as per the DDR namely ASI Lakhwinderpal No. 908 and ASI Malkeet Singh NO. 1147/Kapurthala. The perusal of the statements would itself reveal that the same is only in regard to the recording the statement of Kuldeep Tomar on 21.03.2024. The Statements do not mention any occurrence or any independent observations or any independent statements in regard to the occurrence when this firing incident happened. It further do not show anything that where were these two police officials from 09:00 PM on 20.03.2024 to 3:00 PM on 21.03.2024. These statements itself proves that these two police officials were not present at the time of occurrence as do not independently corroborate the incident. Perusal of their statements would further reveal that it is only in regard to the statement of Kuldeep Singh Tomar which is his version in the FIR.”

4. The petitioner's counsel prays for bail by imposing any stringent conditions and contends that further pre-trial incarceration would cause an irreversible injustice to the petitioner and their family.

5. The State's counsel opposes bail and refers to the short reply.

6. It would be appropriate to refer to the following portions of the short reply, which read as follows:-

“4. That complainant has stated that on 20.03.2024, NCB Chandigarh Team headed by him was going towards the area of

Kala Sanghian in connection with FIR No.3 of 2024 in their vehicles bearing no. DL-12- CN-2172 make Swift Dezire, DL-12-CT-4446 make Bolero and PB-09-V- 5025 make Hyundai Grand i10. The complainant further stated that uncle of Palwinder Singh Pinda i.e. petitioner namely Inderjit Singh was also with them to identify Palwinder Singh Pinda and Iqbal Singh Sonu.

5. That during the course of investigation, they saw a Bolero vehicle bearing registration No. PB08-DY-6432 coming from opposite direction towards vehicles of complainant and Inderjit confirmed the complainant, that Palwinder Singh Pinda i.e. petitioner and Iqbal Singh Sonu are present in said vehicle. That thereafter said vehicle was signaled to stop, however aforesaid accused persons fled away from the spot with the vehicle. After sometime, they again saw that Boleroi vehicle with another open camper without registration number having many people armed with deadly weapons and swords. They started firing and fired around 25-30 shots on police party towards the NCB Team and one of the bullet hit at the left thigh of DHL official Vishal Sharma.

6. That thereafter aforesaid Palwinder Singh @ Pindai.e petitioner was apprehended along with Bolero vehicle, however, his associates managed to escape from the spot namely Iqbal Singh @ Sonu i.e. petitioner, Kulwinder Singh Kinda, Balli, Kanta and 8-10 other unknown persons. The said DHL official Vishal Sharma was shifted to hospital for treatment.

7. That complainant has stated that the aforesaid accused persons also restrained the police official from doing their lawful duties and fired upon the DHL official Vishal Sharma with the intention to kill as such he requested to take legal action against them.

8. That accused Palwinder Singh i.e. petitioner suffered disclosure statement that on 20-03-2024 NCB officials from Chandigarh conducted raid at his house, and at that time he was present at Poultry farm of Iqbal Singh along with his brother Kulwinder Singh@ Kinda, Iqbal Singh i.e. petitioner was having licensed revolver. He further disclosed that they were coming from Kala Sanghian in their vehicle make Baleno bearing no. PB-08-DY-6432 and in the meanwhile 4/5 vehicles in which police officials in civil dress and two police officials in police uniform started chasing them. He further disclosed that thereafter co-accused Iqbal Singh called Baljit Singh@ Balli to come at the spot, who came and alighted in their vehicle.

9. That petitioner further disclosed that in the meanwhile when their vehicle reached at Nakodar to Kapurthala Road and vehicles which were chasing them were coming on their back and thereafter Iqbal Singh stopped the vehicle near the side of road and started firing at police party, then Iqbal Singh called Kulwant Singh@ Kanta to reach at the spot then he(Kanta) reached at the spot in Open camper, and Iqbal Singh was firing at police party at that time and thereafter Kulwinder Singh@ Kinda, Baljit Singh@ Bali and Iqbal Singh after alighting Camper fled away from the spot. He further disclosed that Kulwant Singh@ Kanta can tell about the ownership of Camper.

10. That injured official Vishal Sharma was medico legally examined

vide MLR No. 39/NM/2013/2024/CHKPT dated 20-03-2024 and he suffered following bullet injury:-

INJURY TO LEFT HIP

SITE:- Left Hip,

A round shaped wound of size 1cm x0.5cm with abrasion on lateral aspect of thigh.15cm below Asis

GUNSHOT ENTRY SKIN:- Wound 02cm

SHAPE: Circular

Fresh, Blunt, Irregular Burnt Margins.

Skin: Soft Tissue exposed

No active arterial bleeding present.

X-RAY Finding: PBH AP Gunshot lying in front of left hip joint

CT SCAN RIGHT HIP FROM SUPER SCANNING& DIAGNOSTICS PVT.LTD. (21/03/2024)

Gunshot injury with retained bullet on left side deep to the muscles, abutting the femoral head-neck junction with accompanying mild joint Effusion.

Note: Injury No.1 is Gunshot and Grievous in nature.

Role of Petitioner

14.That there are serious and specific allegations against petitioner as he along with his other associates named above, restrained the police officials from doing their lawful duties. There are further allegations that the aforesaid assailants also assailed upon the NCB Team and have fired 20-25 shots at police party and gave fire shot injury at the person of DHL Official. It is pertinent to mention here that petitioner alongwith co-accused have fired gunshots on NCB team and official Vishal Sharma has suffered gun shot injury which was declared grievous as such the allegations against the petitioner is quite serious in nature.

Evidence Against Petitioner

15.That in the present case petitioner was arrested in present case on 21-03-2024 and he suffered disclosure statement that in the night on 20-03-2024 NCB officials from Chandigarh conducted raid in his house, and at that time he was present in Poultry farm of Iqbal Singhalongwith his brother Kulwinder Singh@ Kinda and at that time Iqbal Singh was having licensed revolver. It is pertinent to mention here that petitioner has categorically stated in his disclosure statement that at the time of occurrence co-accused Iqbal Singh was very much present at the place of occurrence and healongwith co-accused have fired gun shot on NCB team, moreover co-accused Iqbal Singh was having licensed revolver at that time and said revolver is required to be seized, and Iqbal Singh alongwith co-accusedBaljit Singh@ Bali fled away from the spot.”

7. The petitioner was caught red-handed. The allegations are heinous.

8. A perusal of the bail petition and the documents attached prima facie points towards the petitioner's involvement and does not make out a case for bail. The impact of crime would not justify bail. Any further discussions will likely prejudice the petitioner; this court refrains from doing so.

9. The petitioner's custody of 09 months cannot be termed prolonged, given the maximum sentence for the offense being life imprisonment.
10. Regarding the delay in the trial, if the trial does not conclude within two years of the petitioner's custody and is not attributable to the petitioner, the petitioner may apply for bail before the trial Court. The Court shall not be influenced by the dismissal of bail on merits or by the criminal history and shall decide it on changed circumstances and the prolonged trial.
11. Any observation made hereinabove is neither an expression of opinion on the case's merits nor shall the trial Court advert to these comments.
12. **Petition dismissed.** All pending applications, if any, are disposed of.

(ANOOP CHITKARA)
JUDGE

19.12.2024
Jyoti Sharma

Whether speaking/reasoned: Yes
Whether reportable: No.