

CRM-M-31153-2023

210 IN THE HIGH COURT OF PUNJAB AND HARYANA
CHANDIGARH

CRM-M-31153-2023 (O&M)

Date of Decision: 12.03.2024

RASHPAL SINGH @ JASPAL SINGH

...Petitioner

V/S

STATE OF PUNJAB

...Respondent

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Malkeet Singh, Advocate for
for the petitioner.

Mr. Subhash Godara, Addl. AG Punjab.

HARPREET SINGH BRAR J. (Oral)

1. This is the first petition filed under Section 439 of Cr.P.C. seeking grant of regular bail to the petitioner in the case bearing FIR No. 19 dated 24.01.2022 registered under Sections 307, 379-B(2), 341, 506, 34 of Indian Penal Code and Sections 25/27 of Arms Act at Police Station Sadar Tarn Taran, Tehsil and District Tarn Taran.

2. Brief facts of the present case are that FIR was registered at the instance of Bhupinder Singh @ Mota son of Iqbal Singh resident of village Gulalipur who recorded his statement that he is the resident of above said address and is manual labourer for livelihood. He got married with Baljit Kaur about 9 years back and he has got three children from the marriage. His wife is residing at village Bainka police station Bhikhiwind and she used to visit her maternal parents house and she developed illicit relationship with Varinder Singh @ Affu alias Kali resident of village Bainka. His wife started residing most of the time with said Varinder Singh alias Affu alias Kali and the same was objected to due to which there was matrimonial dispute between him and his wife about three months back. He obtained mutual divorce through panchayat on this ground, due to which

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Varinder Singh started keeping grudge against the complainant. Varinder Singh alias Affu from his mobile phone used to make whatsapp message and used to call bad names and threatening to kill him and was openly sending message that the complainant creating hurdle in the relationship between him and wife of the complainant and also threatened for dire consequences. On 24.01.2022 at about 1:00 P.M. the complainant along with his friend Sabbu son of Hansa Singh were on motorcycle on bearing no. PB-88-3829 and were proceeding from Adda Shabajpur to village Gulalipur and the complainant was the pillion rider and when they crossed bus stand Shabajpur. One car Venue of grey colour suddenly stopped in front of the motorcycle. It was without number and AF was written in the place of number plate. The said car struck on the side of the motorcycle as a result of which the motorcycle fallen on the road and both of them fallen on the ground. Immediately, before the complainant could realize as to what had happened, three persons came out from the car armed with pistol and driver of the car turned the car to the backside direction towards Sahbazpur. Varinder Singh @ Affu @Kali caused butt blow of the pistol on the face of the complainant waist and as a result of which the complainant fell down on the ground and other two person also started causing injuries with the butt of the pistol upon the Sarabjit Singh @ Sabbu. Thereafter, Varinder Singh fired two pistol shots towards the complainant to kill him but the same fortunately did not hit him. People gathered there and all the three persons fled away from the place of occurrence.

3. Learned counsel for the petitioner *inter alia* contends that the petitioner is neither named in the FIR, nor any overt act or specific allegation has been levelled against him and the petitioner has been involved in the present case on the basis of disclosure statement of

co-accused Gurbax Singh and also the complainant, who made a supplementary statement after 10 days of the occurrence. Moreover, there is nothing on record to establish the identity of the petitioner in the alleged occurrence. The test identification parade as required under Section 54-A of Cr.P.C. has not been conducted in the present case. The main accused against whom the motive and the allegations pertaining to Section 307 of Indian Penal Code has been attributed, has been released on regular bail by learned Sessions Judge, Tarn Taran vide order dated 04.07.2023 and two more co-accused namely Karandeep Singh and Harpreet Singh @ Happy have been granted the concession of regular bail by learned Additional Sessions Judge, Tarn Taran vide orders dated 23.02.2023 (Annexure P-4) and 02.02.2023 (Annexure P-5) respectively and the petitioner is behind the bars since 02.03.2022 and the trial of the case is progressing at snail's case.

4. Per contra, the learned State counsel opposes the grant of regular bail to the petitioner on the ground that he is a habitual offender and involved in 14 more cases and out of those cases, he has already been convicted in 4 cases. As such, he does not deserve the concession of regular bail.

5. Having heard learned counsel for the parties and after perusing the record of the case, it transpires that the petitioner is behind the bars since 02.03.2022 and out of total 19 prosecution witnesses, none has been examined so far. Other co-accused, except the petitioner in the FIR(supra) have been released on regular bail by the learned Sessions Court, Taran Taran. So further incarceration of the petitioner without there being the prospect of the conclusion of the trial in the near future, would be violative of Article 21 of the Constitution of India. Culpability, if any, would be

determined at the time of the trial.

6. In view of the ratio of law laid down by Hon’ble Supreme Court in *Prabhakar Tiwari Vs. State of UP and Anr.* 2020(1) RCR (Criminal) 831 and *Maulana Mohd. Amir Rashadi Vs. State of U.P. and Others* 2012(2) SCC 382, the involvement of accused in other criminal cases cannot be the sole ground to deny him the concession of bail.
7. In view of the above, the present petition is allowed and the petitioner-Rashpal Singh @ Jaspal Singh is ordered to be released on regular bail during trial on his furnishing bail bonds/surety bonds to the satisfaction of Illaqa Magistrate/Trial Court.
8. Nothing observed hereinabove shall be construed as expression of opinion of this Court on merits of the case and the trial Court shall proceed without being prejudiced by observations of this Court.

12.03.2024
Ajay Goswami

(HARPREET SINGH BRAR)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No