



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

304

CRM-M No.31225 of 2024
Date of Decision: 11.07.2024

Davinder Singh ... Petitioner
Versus
State of Punjab ... Respondent

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present: Mr. Munish Garg, Advocate,
for the petitioner.

Mr. Amandeep Singh Samra, AAG, Punjab,
for the respondent-State.

MANISHA BATRA, J.

1. The present petition has been filed under Section 439 of Cr.P.C. seeking regular bail in FIR mentioned below:-

FIR No.	Dated	Police Station	Sections
0017	19.02.2024	Dhanaula, District Barnala	307, 353, 186, 332, 333 and 34 of IPC and 25 (6) and 25 (7) of Arms Act, 1959

2. Brief facts of the case relevant for the purpose of disposal of the present petition are that the aforementioned FIR was registered on the basis of statement recorded by Sandeep Goel PPS, AIG AGTF Punjab on 19.02.2024, alleging therein that on the previous night, he along with other officials was present on duty when a secret information was received that Gurmeet Singh alias Kala Dhanaula resident of Village Mana Patti Dhanaula who had organized a gang of criminals, and who

2024:PHHC:087233



had shot at former President of Truck Union, Dhanaula namely Surinderpal @ Bala about one month back and was wanted in many cases, was present along with his accomplices at a house situated at Village Badbar Sangrur road at that time being armed with huge quantity of modern weapons and was planning to commit some offence, could be apprehended. Believing the secret information to be true, senior officials were informed. Five teams were constituted which reached at the informed place. The police parties surrounded the farm house from outside and then Gurmeet Singh @ Kala Dhanaula and his companions were asked to surrender. However, they opened an attack upon the members of the police party with intention to kill them. Shots were fired in the air by the police officials as well. The accused had started firing on the police party. Accused Kala Dhanaula and three others tried to flee while firing upon the police officials. A bullet fired by him hit Inspector Pushwinder Singh who was wearing a bullet proof jacket but another shot injured him. One bullet went off while touching the turban of SI Jaspreet Singh. Shots were fired at accused Kala Dhanaula and ultimately he fell in the wheat field at the back side of the farm and died. Two pistols and a small bag carried by him in his right hand were taken into custody. Co-accused Sukhchain Singh @ Cheena, the present petitioner-Davinder Singh and Manjinder Singh alias Goga were also apprehended. Arms were recovered from the present petitioner and co-accused Sukhchain Singh @ Cheena. The remaining persons accompanying these accused had managed to flee. After registration of FIR, investigation proceedings were initiated. The same have since been completed and challan has been

2024:PHHC:087233



presented before the trial Court. The petitioner had moved an application for grant of regular bail which was dismissed by the Court of learned Sessions Judge, Barnala vide order dated 07.06.2024.

3. It is argued by learned counsel for the petitioner that he has been falsely implicated in this case. He is in custody since 19.02.2024. Infact due to political grudges, there was false encounter of Kala Dhanaula. The petitioner was not even present at the spot. He had been arrested by the police party later on because of the reason that he was nominated as accused in other cases. No empty shells of bullets were recovered by the investigating agency from the spot which falsified the plea of use of fire arms having taken place between the members of the police party and the members of gang of Kala Dhanaula. No firearm injury has been attributed to the petitioner. A false recovery of one pistol and two cartridges has been planted upon him. The police officials had sustained simple injuries and none of those were caused by the petitioner. The trial is likely to take time. Therefore, it is argued that the petitioner deserves to be given concession of bail.

4. Per contra, it has been argued by learned State counsel that there are serious and specific allegations against the petitioner. He has criminal antecedents and two more criminal cases are pending against him. He was arrested from the spot itself. In furtherance of his common intention with his co-accused, he had caused obstruction in the duty of the complainant and other police officials who are public servants, by physically assaulting them by raising shots with firearms upon them with an intent to

2024:PHHC:087233



kill them and had made attempt to do so. The trial is to commence shortly after framing of charges and there is nothing on record to show that there would be any undue delay in conclusion of the same. The plea taken by the petitioner that he was not present at the spot at the time of occurrence is false on the face of record as he was one amongst the three persons who were apprehended from the spot whereas their kingpin i.e. Kala Dhanaula has been killed when he was trying to flee while opening fire at the police officials. There are chances of petitioner's absconding if extended benefit of bail as he had already been absconding in the cases registered against him. Hence, it is argued that he does not deserve to be given concession of bail.

5. I have heard learned counsel for the petitioner as well as learned State counsel at considerable length and have gone through the record.

6. The petitioner is alleged to be present along with the co-accused and accused Kala Dhanaula who was an absconder and a wanted criminal, in a farm house at Village Dhanaula. As per the allegations, the police teams had surrounded the farm house in which the petitioner along with the co-accused was present and had advised them to come out. Instead of surrendering, they tried to flee while opening fire with firearms carried by them. One pistol and two live cartridges have been recovered from him. The petitioner is in custody since 19.02.2024. The trial is likely to take time. The prosecution has not been able to explain the factum of non-recovery of any empty shells from the place of occurrence. No doubt, the petitioner has criminal antecedents but that alone cannot be a reason to deny benefit of bail to him. Keeping in view the period of his incarceration, the part attributed to

2024:PHHC:087233



him in commission of the subject crime and the attendant facts and circumstances but without meaning to make any comment on the merits thereof, I am of the considered opinion that the petition deserves to be allowed. Accordingly, the same is allowed and the petitioner is ordered to be admitted to bail subject to his furnishing personal as well as surety bonds to the satisfaction of learned trial Court.

11.07.2024
manju

(MANISHA BATRA)
JUDGE

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No