



IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

236

CRM-M-32739-2024

Date of decision: July 17th, 2024

Harwinder Singh @ Joyee

.....Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present: Dr. Anmol Rattan Sidhu, Senior Advocate
with Mr. Raghav Gulati and Mr. Rahul Kesar, Advocates
for the petitioner.

Mr. Shiva Khurmi, Assistant Advocate General, Punjab.

MANJARI NEHRU KAUL, J. (ORAL)

This is a third petition filed by the petitioner seeking the concession of regular bail under Section 439 of the Code of Criminal Procedure, 1973 in case FIR No.299 dated 25.10.2020 under Sections 307, 341, 323, 506, 148, 149 of the Indian Penal Code, 1860, and Sections 25 and 27 of the Arms Act registered at Police Station Civil Lines, Patiala.

2. At the outset, learned senior counsel has submitted that although this is the third petition, which has been filed under Section 439 of the Cr.P.C., it merits consideration; undisputedly, the first petition was dismissed on merits on 22.11.2022 followed by second petition which was dismissed as withdrawn on 12.01.2024, hence, he would limit his prayer only on the ground of the long incarceration of the petitioner, who has now been in custody since 12.11.2020. Learned senior counsel has also submitted that identically placed co-accused Amar Kalyan has already been extended the concession of bail by this Court. Consequently,

the petitioner also deserves similar relief given that the trial would take considerable time to conclude with 22 prosecution witnesses still remaining to be examined.

3. *Per contra*, at the very outset, the learned State counsel while opposing the prayer and submissions made by the learned senior, has contended that this petition does not merit consideration. The learned State counsel has emphasized that the first petition seeking similar relief had been dismissed on merits vide a detailed order on 22.11.2022, and the second petition had been withdrawn on 12.01.2024, after this Court expressed its disinclination to accept the prayer of the petitioner. Additionally, the learned State counsel has highlighted the severity of the manner in which the crime in question was carried out.

4. Learned State counsel while drawing the attention of this Court to the allegations levelled in the FIR, which has been annexed as Annexure P-1, has argued that a perusal of the same leaves no manner of doubt that the attack was premeditated. The petitioner along with his co-accused, arrived at the scene armed with lethal weapons, including firearms. Without any provocation, the petitioner fired at the injured Charanjit Singh, first hitting him on his bicep and then on the left side of his abdomen, a vital part of the body. The learned State counsel further asserted that all material witnesses including injured Charanjit Singh and Rehan had fully supported the case of the prosecution during their testimony, which was fully corroborated by the medical evidence on record.

5. Moreover, it was argued by the learned State counsel that the petitioner could not claim parity with the co-accused, who had been granted bail since the injury attributed to the co-accused was opined to

be simple in nature and furthermore, it was at the behest of the petitioner that the crime in question was given effect to. Learned State counsel further argued that the petitioner has a history of criminal antecedents, as is evident from his custody certificate, which has been produced in the Court today. He has had repeated brushes with the law and committed the crime in question while out on bail for other criminal cases already registered against him. Furthermore, the petitioner is facing trial in various other criminal cases, necessitating his production in different Courts, which also has contributed to the delay in the conclusion of the trial.

6. However, the learned State counsel has also submitted that since most of the material witnesses stand examined, and only formal witnesses remain to be examined, therefore, the trial would not take much time to conclude now.

7. I have heard learned counsel for the parties and perused the relevant material on record.

8. Before proceeding further, it would be apposite to reproduce the FIR, which is as under:-

"Statement of Shri Rihan son of Hazi Mohammad Dilshad, resident of Street No.02 Guru Har Sahai Colony Village Chora District Patiala aged about 22 years Mobile No. 70106-35263. Stated that I am resident of abovesaid address and study in BA-III in the Modi College Patiala. Today I, alongwith my friends, Magan @ Manggur, resident of Gurbaksh Colony Patiala, Manpreet Singh Mani ro Tafzalpur Patiala, Charanjeet Singh @ Lalli s/o Jaspal Singh r/o Gharouli Gate Patiala, Jaspreet Singh, Manggu & Naveen Kumar were having tea etc at NIS Chowk Patial after coming back from the stone laying function of Punjab Sports University Patiala after parking our vehicle Car bearing registration no. PB-

11-CB-0990 of make Breeza and vehicles. Then at about 1 PM in the noon, one car- of make Verna color Golden in which 4/5 persons were riding, one innova car in which 4/5 persons were riding. 2 Bullet motor cycles on which 2/2 persons were riding & one Activa Scooty on which one person was riding stopped near us. Out of which Harvinder Singh Jot, Amar Singh Kalyan, Shibbu Gill, Gopi Thakur, Guri Dhaliwal, residents of Dhiru Nagar Patiala, Mandeep Singh @ Sonu Painter @ Mangu S/o Avtar Singh r/o Sanjay and 8/9 other unknown persons whom I can identify on being confronted were armed with deadly weapons and came near us after getting down from their respective vehicles. Harvinder Singh Joi and Amar Singh Kalyan started arguing with our friend Manpreet Singh @ Mani and threatened him that today we will teach you a lesson. Me and Charanjeet Singh @ Laali came in front and said that we have no enmity with you then why are you adamant to fight with us. Then Harvinder Singh Joi raised a lalkara to his accomplices that encircle them. They should not escape. All of these encircled us and started scuffling with us. Harvinder Singh Joi pulled out the pistol held by him in his side and loaded the same and fired at Charanjeet Singh Laali with an intention to kill him which hit him on bicep of his right arm. Then Amar Singh pointed his revolver/pistol towards me. I started running to save my life at once at which he fired at me which hit me on my back due to which I fell on the floor, In the mean time Harvinder Singh Joi fired one more shot on Charanjh Singh Laall while I was watching which hit him on left side of his abdomen. Then he also fell down, then Guri Dhaliwal, Mandeep Singh Sonu Painter Mangu and Sibbu Gill caught me from the legs and dragged me and unknown persons kicked Charanjeet Singh Laali while he lay down and our friends Magan Singh @ Mangu, Manpreet Singh @ Mani, Mangu and Naveen Kumar raised noise of Marta-Marta, Bachao-Bachao then on seeing people gathering at the spot. Harvinder Singh Joi fired one shot towards us which went over us and hit on

the back side of the Breeza car bearing registration no. PB-11CV-0990 of Manpreet Singh Mani. Then all of these fled away from the spot on their respective vehicles alongwith their weapons. The reason of the grudge is that Harvinder Singh lot has old enmity with our friend Inderpreet Singh s/o Narinder Singh r/o Malwa Enclave who have many cases of quarrel between them pending in courts. Our friend Jaspreet Singh etc picked up from the spot and got us admitted in the Rajindera Hospital Patiala where I and Charanjeet Singh Laali are getting treatment. I have got recorded my statement which I have read and heard and it is correct. Appropriate legal action be taken and justice be given.”

9. A perusal of the FIR, which stands reproduced hereinabove leaves no manner of doubt that *prima facie* it was a premeditated attack carried out by all the accused, who approached the complainant party in multiple vehicles; all the accused were armed with deadly weapons including firearms. Allegedly, it was the petitioner, who initiated the occurrence in question leading to a physical confrontation; during the altercation, the petitioner instructed his accomplices to encircle the complainant party ensuring that they did not escape. Thereafter, they assaulted the complainant and his friends. *Prima facie*, the petitioner comes across as the prime instigator, who threatened to teach a lesson to the complainant party; petitioner after raising a *lalkara* and encircling the complainant party, pulled out a pistol, loaded it and then fired at injured Charanjit Singh hitting him on the bicep of his right arm. He thereafter fired second shot at Charanjit Singh, hitting him in the abdomen, a vital part of the body. Furthermore, while fleeing away from the spot, the petitioner yet again fired a shot that struck one of the cars and thereafter, along with his accomplices, dragged the complainant Rehan by his legs and also kicked injured-Charanjit Singh

after he had fallen. Allegedly, there was an old enmity between the petitioner and one of the friends of the complainant, which was the motive to commit the crime in question.

10. This Court is conscious that the petitioner has been in custody since 12.11.2020, however, it cannot turn a blind eye to the criminal antecedents of the petitioner, who as per the learned State counsel, is facing trial in many criminal cases in different Courts and has to be taken there on different dates of hearing, which is one of the reasons for the delay in the conclusion of the present trial.

11. In the facts and circumstances and the mode and manner in which the crime in question was executed and that too, when the petitioner was on bail in some other criminal cases already pending against him, this Court does not deem it fit to accept the prayer of the petitioner.

12. The instant petition stands dismissed.

13. However, the trial Court is directed to make earnest efforts to expedite the trial keeping in view the custody period of the petitioner and conclude it preferably on or before 31.12.2024.

14. It is made clear that anything observed hereinabove shall not be construed to be an expression of opinion on the merits of the case.

July 17th, 2024
Puneet

(MANJARI NEHRU KAUL)
JUDGE

Whether speaking/reasoned : Yes

Whether reportable : No