

2024:PHHC:061881

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

210

CRM-M-34316-2023

Date of Decision :02.05.2024

TEJINDER SINGH GILL ALIAS GORKHA

.....Petitioner

VERSUS

STATE OF PUNJAB

.....Respondent

CORAM: HON'BLE MR. JUSTICE KULDEEP TIWARI

Present : Mr. S.K.Sandhir, Advocate,
for the petitioner.

Mr. Deepinder Singh Brar, DAG, Punjab.

KULDEEP TIWARI, J.(Oral)

1. Through the instant petition, the petitioner craves for indulgence of this Court for his being enlarged on regular bail, in case FIR No.39, dated 24.02.2023, under Sections 307, 353, 186, 332, 333, 506, 120-B, 427, 148 of the IPC, read with Section 149 thereof, registered at Police Station Ajnala, District Amritsar Rural.

2. In asking for the relief (*supra*), learned counsel for the petitioner submits that no overt act has been attributed to the present petitioner.

3. He further submits that the alleged incident occurred on dated 23.02.2023, at about 2:00 p.m., whereas the present FIR, was registered on 24.02.2023, at about 9:30 p.m. thus there is a delay of more

than 30 hours in lodging the instant FIR, after the occurrence. The delay so occurred, has been attributed to deliberately aggravate the penal offences, through pre-mediation and concoction.

4. He further submits that petitioner got married in the year 2015, and is a social worker, and is doing many social works in his native village. Petitioner is helping to cremate the dead bodies of poor families, and thereafter, performs the last rites as well. Further, petitioner also takes care of the stray animals, and is also inspiring youngsters for the same purpose.

5. He also submits that no offence, whatsoever, as alleged in the instant FIR, has been committed by the petitioner. In fact, as no order under Section 144 Cr.P.C. was promulgated by the District Magistrate concerned, therefore, even though the petitioner was present on the spot, no offence has been committed by him.

6. He over and above submits that the petitioner is not named in the FIR (*supra*) as only 19 persons that too empty handed were shown to be present at the spot. The mobile tower location of the present petitioner also proves that he was not present on the place of occurrence at the time of incident.

7. He in addition submits that the petitioner was arrested way back on dated 20.04.2023, and has suffered sufficient incarceration of more than one year as on today, and the trial is yet to commence, and therefore, the petitioner cannot be kept behind the bars for an indefinite period.

8. *Per contra*, the learned State counsel opposes the asked for relief of grant of regular bail. He submits that the petitioner was very much present at the place of occurrence, and was armed with a Point 12 bore gun. The investigating agency is in possession of photographs which very much shows presence of the present petitioner on place of occurrence, and his active participation in the said occurrence.

9. He further submits that during investigation, it transpired that the present petitioner, was taking training of operation of deadly fire arms, in the training camp of Amritpal Singh, and the photographs as available with investigating agency, shows that the petitioner was holding a rifle on the AKF (Anandpur Khalistan Force), was printed. The photographs further shows that the present petitioner was standing with Amritpal Singh, on different occasions.

10. He, to a greater extent, submits that, as far as the mobile tower location of present petitioner is concerned, it was found to be at Jallupur (village of Amritpal Singh), and on dated 22.02.2023, i.e. a day prior to the present occurrence, and on the date of the occurrence, his location was shown to be at the place of incident.

11. He augmented his argument and submits, that the petitioner in fact was arrested on dated 22.03.2023, and FIR bearing No.23, dated 23.03.2023, under Sections 188, 336 and 212 IPC, and under Sections 25 of the Arms Act, was registered at Police Station Maloud, District Khanna, and during investigation, a Point 12 bore gun which the petitioner was carrying at the place of occurrence, was also got recovered

from him. The present petitioner was produced on production warrant and, thereafter, was arrested in the instant FIR.

12. He further, on instructions imparted to him by Sh.Raj Kumar, DSP, Ajnala, submits that the charges are not framed yet, and there are total 125 prosecution witnesses cited by the prosecution in the final report.

13. He also files a custody certificate *qua* the petitioner, which is taken on record, and, it reflects that the petitioner has suffered incarceration of 1 year and 12 days as on today, and, he is involved in one more criminal case bearing FIR No.23, dated 22.03.2023.

14. Before this Court considers the entitlement of the present petitioner, to be released on regular bail, it deems imperative to begin with extracting the relevant contents of the present FIR, which are reproduced hereinafter:-

“Para 12- (First information material (if necessary then attach separate seat); Head Munshi Police Station Ajnala, Today I, SI/SHO alongwith ASI Agyapal Singh No. 902, ASI Ratan Singh No. 63, HC Satwant Singh 1541. HC Harmanjit Singh No. 483, CT Sarabjit Singh No. 1882, CT Harjit Singh No. 1520, CT Sukhdev Singh No. 901, CT Harjinder Singh No. 518, CT Sukhwinder Singh No. 311 riding on Government vehicle being driven by ASI Sukhdev Singh No. 1212 are present at Main Chowk Ajnala in connection with law and order duty. that Amritpal Singh son of Tarsem Singh resident of Jallupur Kheda who was named in the case FIR No. 29 dated 16.02.2023 Under Sections/Crime 365,379- B(2), 323, 506(i), 148, 149 IPC PS Ajnala and was propagated by him in the media that he, regarding the false case registered by Ajnala police station against him and his companions, Ajnala police station will be surrounded on 23.02.2023, so he was asking as many people as possible to reach Jallupur Kheda village. Keeping in view of his statement, an eye on any kind of law and order situation, adequate security my arrangements were made in Ajnala city on 23.02.2023 in which forces and officers were deployed from other districts and various units apart from Amritsar rural, which was monitored by respectable SSP Sahib Amritsar Rural himself. On 23.02.2023, when it was 2.00 pm, the group of Amritpal Singh under his leadership reached Ajnala city in the form of a crowd, then this group was stopped near the office of BDPO Ajnala in a peaceful

manner by senior officers and tried to talk to Amritpal Singh then in the crowd/gathering, apart from Amritpal Singh and his group which included 2) Harjit Singh Chacha 3) Harmel Singh Jodhe 4) Harwinder Singh Hundal @ Labh Singh 5) Gurbhje Singh Bathinda 5) Gurpreet Singh resident of Tarn Taran 7) Pappalpreet Singh son of Pargat Singh resident Mardi Kala 8) Onkar Singh resident of Rama Mandi Jalandhar 9) Varinder Singh Fauzi resident of Jod Singh Wala 10) Harkaran Singh @ Champa son of Savinder Singh resident of Kotli Amb 11) Sarabjit Singh Sarpanch Khanpur 12) Baljinder Singh son of Kewal Singh resident of Jangiana District Barnala 13) Gurpal Singh son of Maghar Singh Resident of Kotra Kauriyawala District Bathinda 14) Jagmohan Singh alias Jagga Resident of Tarn Taran 15) Amandeep Singh Resident of Panjgrai District Faridkot 16) Satnam Singh Resident of Patiala 17) Pippal Singh Resident of Motlan 18) Sukhpreet Singh Resident of Mardi Kala 19) Bikramjit Singh, other 200/250 unidentified persons armed with daga, kripana, spears, daggers and weapons, in a pre- conceived plan to kill the police personnel and officers present at the spot, attacked directly with kirpans, datra, dagger and spears, in which 1) Mr. Jugraj Singh SP- Inv.ASR-R 2) ASI Jatinder Singh No. 62/9/ PAP son of Charat Singh, Resident of Ranjit Avenue Colony Gurdaspur 3) CT Manpreet Singh No. 1749 ASR-R Gunman SP/PBI ASR-R 4) PHG Janak Raj No. 465 son of Puran Chand resident of Adarsh Colony Dinanagar District Gurdaspur 5) PHG Surjit Singh No. 2645/ HPR son of Toti Ram resident of Chakfala District Hoshiarpur sustained severe injuries on heads and other body parts and Amritpal Singh and his accomplices damaged the Government vehicles, barricades were also vandalized and this entire mob led by Amritpal Singh forcibly entered the Ajnala police station raising lalkaras and started challenging the police and threatening to kill them and obstructing the duty of the government orderly officers. Regarding this related camera and CCTV footages are available which Amritpal Singh and his said accomplices in a conspiracy to kill government employees, officials by causing serious injuries and disrupting official duties by threatening them, vandalizing the government vehicles and other belongings has committed offences under sections 307, 353, 186, 332, 333, 506(ii), 120-B 427, 148, 149 of IPC. Mr. Jugraj Singh SP/ Inv ASR- R who was injured and is still unfit to give statement, therefore the Ruqa has been typed and taking printed out, is being sent by hand CT Sarabjit Singh to register the case to police station. After the registration of the FIR, the number should be made aware of. Special reports to be issued. Control Room should be informed. I, SI SHO alongwith other companions are busy in the investigation. Sd/- Jasjit Singh SI/SHO. Today in the area of Main Chowk Ajnala AT 09:05 PM Today Police Station: At this time the said statement has been received in the police station and after the registration of above FIR, under the above offences, copy of the FIR, the original statement by hand, Ct Sarabjit Singh No. 1882 is being sent to the investigation officer for further investigation and after issuing special reports, by hand is being sent through ASI Gurbinder Singh 573 for the information of senior Officers and Area Magistrate Sahib Ji. The control room has been informed through wireless. Completion Report No. 30 Time 21:50 hrs Date 24.02.2023”

15. A perusal of the above extracted FIR reveals that, on dated

23.02.2023, a mob of around 200-250 persons, armed with deadly weapons, which was headed by one Amritpal Singh, the self-proclaimed leader of an Organization called “Waris Punjab De”, had attacked upon the Police Station Ajnala, in order to get released one of their associates from police custody. In their endeavour to secure the release of their associate, the mob turned violent and besides, inflicting injuries to the senior police officials, upto the rank of Superintendent of Police, with sharp edged weapons, the mob also vandalized government property.

16. On 12.02.2023, this Court has passed the following order:-

“In compliance of the last order passed by this Court, Mr.Satinder Singh, SSP, Amritsar is present in the Court and informs this Court that in the instant FIR, the investigation would be completed within eight weeks from today, except the persons, who have also been booked under the National Security Act. He further informs this Court that an appropriate application for segregation of trial qua the persons, who have to face trial under the NSA Act, would be made shortly after conclusion of the investigation.

In view of the above specific statement suffered by the SSP concerned, this Court deems it appropriate to adjourn the instant matters to 2.5.2024 to await the outcome of the investigation.

Let a fresh affidavit with regard to the latest status of the investigation be filed before this Court on or before the next date of hearing.

The presence of the SSP concerned is dispensed with till further orders.

However, in case fresh affidavit, as required, is not filed on or before the next date of hearing, the SSP concerned shall cause his personal appearance before this Court.

A photocopy of this order be placed on the file of connected case.”

17. In compliance to the aforesaid order, a status report, 22.09.2023, by way of an affidavit of Sh.Riputapan Singh Sandhu, DSP, Sub-Division Ajnala, District Amritsar (Rural), was filed on behalf of the State, which is ordered to be taken on record. Wherein, the details of background of the present case have been detailed, the relevant of which

is being reproduced hereinafter:

A. Amritpal Singh, started a new ideology in the State of Punjab, allegedly for preventing the Sikh religion and the rights of the Sikhs and titled the organization as 'Waris Punjab De'. The deeds, actions, intelligent inputs and other strong evidence came on record, which clearly established that he was raging and creating an atmosphere against the State. Later on, the said Amritpal Singh and his associates/accomplice made it clear from their actions, hates speeches etc., on the social media, as well as gathering that they were action against the State and were falsely influencing individuals in this regard. That all these activities created an immense threat to the law and order situation of State of Punjab.

B. XXX XXX XXX XXXX

C. That on 15.02.2023, one Varinder Singh son of Sukhdev Singh was abducted and assaulted by Amritpal's associates. It transpired that, on 07.02.2023, the said Varinder Singh had uploaded a live-video on social media deprecating the illegal and immoral acts being committed by Amritpal Singh and his supporters under the garb of leading a supposed battle for promotion of Sikh rights. In retaliation to the criticism made by the said Varinder Singh, on 15.02.2023, Amritpal got him abducted and brought Varinder Singh before himself. During the period that the said Varinder Singh remained kidnapped he was even assaulted by the Kidnappers in a bid to discourage and dissuade him from speaking against Amritpal and against his organization, i.e. 'Waris Punjab De', in any manner.

D. In respect of the aforesaid occurrence, FIR No. 29 dated 16.02.2023 was registered at the instance of the said Varinder Singh at Police Station Ajnala, District Amritsar (Rural), Punjab for offences punishable under Sections 365, 379B (2), 323, 506, 148, 149 IPC 1860 against Amritpal Singh and his accomplices/other accused.

E. In the said background, it was reasonably apprehended that Amritpal and his supporters were likely to commit serious illegalities against anyone who may express any thoughts contrary to his own radical and extreme thoughts, even in future. If he was to take law in his own hands and go about harming everyone who may not agree with his ideology, as he has done in the recent past a serious and adverse situation of law and order was most likely to arise in the area/State.

F. On 18.02.2023, one of the accused in the aforesaid FIR No. 29, namely Lovepreet Singh alias Toofan, was arrested by the police at Police Station Ajnala in connection with the abduction and assault of the said Varinder Singh. On 19.02.2023, the said Lovepreet Singh alias Toofan, who belongs to Amritpal's coterie, was sent to Judicial Custody by the Ld. JMIC at Ajnala. However, ever since the said Lovepreet Singh alias Toofan was arrested, Amritpal publicly declared that he and his supporters shall take all necessary steps to 'forcibly' get him released from custody.

An information was received that Amritpal had planned to storm the Police Station Ajnala, District Amritsar (Rural), Punjab alongwith his supporters and had announced that they may gherao/surround the Police Station: Ajnala and will get the said Lovepreet alias Toofan released anyhow. At around 02:00PM on

23.02.2023, a Mob of several hundred people, led by Amritpal Singh including Tejinder Singh Gill @ Gorkha (Present Petitioner), marched towards the Police Station Ajnala in a bid to lay siege thereon. Notably, he and the said mob took refuge under Sri Palki Sahib, which was most disrespectfully, made to move along with and as part of the said mob.

G. When the said mob reached the periphery of Police Station: Ajnala a serious clash took place between the mob and the Police force deployed on the spot. On account of the august presence of Sri Palki Sahib, the Police force exercised utmost restraint, so as to ensure that no disrespect to Sri Palki Sahib ensued. However, in the bargain, several Police personnel suffered serious and grievous injuries. Eventually, thousands of persons, including Amritpal Singh, Gurmeet Singh and Tejinder Singh Gill @ Gorkha (Present Petitioner), were able to storm their way into the Police Station Ajnala brandishing their weapons including arms and ammunition.

H. The Senior Superintendent of Police, District Amritsar (Rural), Punjab had to come to the spot and enter into deliberations with Amritpal and his mob of supporters. During this episode, the supporters, who were heavily armed, practically captured the Police Station Ajnala for a period of about 4 hours in addition to having inflicted serious and near-fatal injuries to several of them.

I. Thus, after the occurrence of this illegal, unlawful, prohibited act of Amritpal Singh and Tejinder Singh Gill @Gorkha (Present Petitioner) etc. against the State, the present FIR in question i.e. FIR No. 39 dated 24.02.2023 was registered at Police Station Ajnala, District Amritsar (Rural), Punjab for offences punishable under Sections 307, 353, 186, 332, 333, 506, 120-B, 427, 148, 149 of IPC, 1860 against Amritpal Singh and his associates including Tejinder Singh Gill @ Gorkha.

J. That it is pertinent to mention here that, Amritpal Singh was captured on video-tape right outside the Police Station Ajnala insinuating that the Chief Minister of Punjab was operating in a fashion that would ensure that he is met out with the same fate as former Chief Minister of Punjab, namely late Sh. Beant Singh, who was assassinated by a human-bomb. In the said video-clip, he can be seen and heard saying on a public- announcement system that:-

"We warned CM Mann to not walk on the path of CM Beant Singh. CM Mann is still proceeding on the path earlier treaded by CM Beant Singh. Dilawar acted as Human- Bomb and blew up CM Beant Singh. CM Mann has ensured that several such Dilawar's have taken birth out of this present crowd today"

18. Further the role of the present petitioner in the occurrence, as detailed in the status report(*supra*), is as under:-

6. That during the questioning of the present Petitioner, he stated that he heard and came to know about the president Bhai Amritpal Singh of 'Jatthe Bandi Waris Punjab De' from social media and Youtube. That he further stated that he called Bikramjit Singh on his mobile phone No. 98559-36631 and asked about Amritpal Singh and he called him at Jullapur Khera and made him meet Amritpal Singh. That very soon he became a trust worthy person of Amritpal Singh and

Amritpal Singh started taking him along as his gunman. That after this, the firing practice of Tejinder Singh Gill @ Gorkha was got conducted at Jullupur Khera river, where they used to do firing practice with ammunition of Jatthe Bandi. That he further stated that on 23.02.2023, on the saying of Amritpal Singh he attacked at Police Station Ajnala and at that time he was having 12 bore rifle with him, which has been recovered from him by Police Station Maloud in FIR No. 23 dated 23.03.2023, under Section 188, 336 IPC and Section 25/27 Arms Act, Police Station Maloud, District Khanna.

19. Thereafter, upon investigation, as per the status report (*supra*), following recoveries were effected and technical evidence were collected:

RECOVERY

That from the present petitioner i.e. Tejinder Singh Gill @Gorkha the 12 bore rifle was recovered in FIR No. 23 dated 23.03.2023, under Section 188, 336 IPC and Section 25/27 Arms Act, Police Station Maloud, District Khanna.

TECHNICAL EVIDENCE:

That it is pertinent to mention here that during the investigation the Tower locations of the present petitioner's mobile number 99153-60003 was also taken from the concerned quarters alongwith CDRS, IPDRs. That from the perusal of the CDRS and Tower Locations it has come on record that the location of the present petitioner was at the residence of Amritpal singh i.e. at Village Jallopur Kheda on 22.02.2023. That this shows that present petitioner went to Amritpal's residence and was a part of conspiracy to attack the Police Station Ajnala.

20. It would be significant to record here that, after invocation of provisions of the National Security Act, some of the co-accused in the present FIR, including Amritpal Singh, have been shifted outside the State of Punjab, and have been lodged in Dibrugarh Jail at Assam.
21. It would also be worth to record here that some of the co-accused, namely, Sukhpreet Singh @ Sukh and Harkaran Singh @ Chappa had also approached this Court through respectively filing CRM-M-24533-2023 and CRM-M-34769-2023, thereby seeking the concession of bail, however, the said petitions have been ordered to be dismissed as

withdrawn, vide order of even date.

22. The present incident has shocked the conscience of the entire nation, where an unlawful mob, including the present petitioner, under the influence of one Amritpal Singh, took the law into their own hands by attacking a police station, with an ill intention to get released one of their associates from police custody, instead of taking legal recourse. The “show of strength” by mobsters herein, thereby leading to the present violent act, depicts that the mobsters, including the petitioner, consider themselves above the “Rule of Law” and throw challenge to the sovereignty and integrity of the State. Besides this, they also exhibit their future intentions to take law into their own hands, just to achieve their own sense of justice, if they dis-concur with any act of government authority(ies) established under law.

23. Considering the hereinabove made discussion, especially the surge in violent incidents, specially against the State functionaries, by mobs, which indeed pose threat not only to social fabric of the society, but also to the law enforcement agencies, and the criminal antecedents of the present petitioner as he is involved in one more criminal case, this Court finds no merit in the instant petition and is impelled to dismiss the same. Moreover, since the material placed before this Court, brings to full glare the antagonist state of affairs prevailing in the State of Punjab, therefore, this Court cannot abdicate its constitutional role and turn a blind eye to the suffering of the common man. It will be a travesty of justice, if despite grave allegations, the petitioner is enlarged on bail. The

present matter needs to be dealt with in a realistic manner and with the sensitivity which it deserves, else the faith of the common man, in the law dispensing agencies, would erode.

24. Consequently, after declining the asked for relief of regular bail to the petitioner, the petition is **dismissed**.

25. However, it is clarified that anything expressed hereinabove shall not be construed to have any bearing on the outcome of the final trial.

May 02, 2024
dharamvir

(KULDEEP TIWARI)
JUDGE

Whether speaking/reasoned.	:	Yes/No
Whether Reportable.	:	Yes/No