



**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CRM-M No.41699 of 2024

Date of decision: 22nd October, 2024

Hardeep Singh Baidwan

... Petitioner

Versus

State of Punjab

... Respondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present: Mr. Vinod Ghai, Senior Advocate with
Mr. Arnav Ghai & Ms. Kashish Sahni,
Advocates for the petitioner.

Mr. Deepinder Singh, Addl. Advocate General, Punjab
for the respondent/State.

MANJARI NEHRU KAUL, J.

1. The petitioner is seeking the concession of bail under Section 483 of the BNSS 2023 in case FIR No.0238 dated 23.11.2023 under Sections 302, 307, 33, 333, 353, 186, 148, 149, 120-B of the IPC and sections 25, 27, 54, 59 of the Arms Act, 1959 (Section 201 IPC added later on) registered at Police Station Sultanpur Lodhi, District Kapurthala.

2. Learned senior counsel for the petitioner submits that the petitioner has been falsely implicated in the present case, which revolves around allegations of providing financial assistance to the main accused. While drawing the attention of this Court to the FIR annexed as Annexure P-1, it has been pointed out by the learned senior counsel that

FIR No.235 dated 21.11.2023 was registered under Sections 307, 323, 324, 342, 447, 448, 511, 436, 427 etc. IPC and under Section 25/27 of the Arms Act, 1959. This FIR pertains to an incident involving an alleged attack by Baba Maan Singh and his associates, during which they allegedly seized control of Gurdwara Akal Bugga Sahib Lodhi, on 20.11.2023. A subsequent incident on 22.11.2023 allegedly involved an attempt to take over another Gurdwara at Peer Gaib Gaaji, leading to violent confrontations between two factions of Nihangs. These clashes resulted in the initiation of proceedings under Sections 107/150 of the Cr.P.C. and further violent altercations, leading to the death of a police official, PHG Jaspal Singh, during an attack on a police party by members of the accused group, which included the firing of several rounds.

3. Learned senior counsel asserts that the false implication of the petitioner is evident from the fact that he was neither named in the original FIR dated 21.11.2023, nor in any preventive action taken on 22.11.2023 under Sections 107/150 of the Cr.P.C.

4. Furthermore, no overt act has been attributed to the petitioner at any stage of the case. During the initial investigation, which concluded with the submission of the challan under Section 173 Cr.P.C., the petitioner was not implicated as an accused. It is further contended, that the statements of several police officials were recorded under Section 161 Cr.P.C. and even at that stage, there was no incriminating evidence against the petitioner.

5. Moreover, even after the co-accused were arrested and their disclosure statements recorded, the petitioner's name did not surface in any of those statements. It was only on 19.01.2024, much after the occurrence in question, in a statement made under Section 161 Cr.P.C. by a police officer, the name of the petitioner appeared for the first time, leading to the filing of a supplementary challan against him. It has been asserted by the learned senior counsel that the only allegation in this supplementary challan is that the petitioner provided financial assistance to the main accused by funding their legal defence. Learned senior counsel has further drawn the attention of this Court to the challan annexed as Annexure P-2 by arguing that the case of the prosecution is based solely on a disclosure statement which is a weak piece of evidence and lacks credibility, and furthermore, is the only evidence to link the petitioner to the alleged offences.

6. Learned senior counsel has further emphasized that since the petitioner has been in custody for more than six months, having been arrested on 06.04.2024, and given that the trial is likely to be prolonged as charges have yet not been framed, his further incarceration would serve no useful purpose.

7. Per contra, learned State counsel while opposing the prayer and submissions made by the counsel opposite, on instructions, does not dispute that the petitioner was not named either at the time of lodging of the instant FIR or even in the FIR dated 21.11.2023. It has also not been controverted that the name of the petitioner did not appear anytime prior

to 19.01.2024 either when proceedings under Section 107/150 Cr.P.C. were initiated, or even subsequently when statements under Section 161 Cr.P.C. of some of the witnesses were recorded. However, learned State counsel submits that the disclosure statement of co-accused Baba Aman Singh dated 22.04.2024 supports the claim that the petitioner aided the co-accused by providing them financial assistance for availing legal aid. Learned State counsel has yet acknowledged that apart from this disclosure statement, no other material evidence has been collected by the Investigating Agency against the petitioner. Learned State counsel has also not disputed, on instructions, that till date supplementary challan has been presented against the petitioner and the charges are likely to be framed on the next date of hearing.

8. After hearing learned counsel for the parties and examining the material on record, it clearly comes to the fore that the petitioner was neither named in the FIR nor in any of the statements made under Section 161 Cr.P.C. of the witnesses/police officials, which were recorded after the occurrences in question. Furthermore, the petitioner has now been in custody for the last six months, since his arrest on 06.04.2024, and given that the trial is expected to take considerable time as charges have not yet been framed, further incarceration of the petitioner would serve no useful purpose.

9. In the facts and circumstances, as enumerated hereinabove, this Court deems it fit to extend the concession of bail to the petitioner. The petition as such is allowed and the petitioner is admitted to bail to

the satisfaction of the trial Court/Duty Magistrate. However, it is made clear that anything observed hereinabove shall not be construed to be an expression of opinion on the merits of the case.

(MANJARI NEHRU KAUL)
JUDGE

October 22, 2024

rps

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