



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

222

CRM-M-43328-2024

Date of Decision : **September 10, 2024**

NISHAN SINGH

.....Petitioner

VERSUS

STATE OF PUNJAB

.....Respondent

CORAM: HON'BLE MR. JUSTICE KULDEEP TIWARI

Present : Mr. A.J.S.Gill, Advocate
for the petitioner.

Mr. Sahil R. Bakshi, AAG, 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.0002, dated 12.01.2024, under Sections 307, 323, 341, 427 and 34 of the IPC and under Sections 25/27/54 and 59 of the Arms Act, 1959, registered at Police Station Ramdas, District Amritsar Rural.

2. On a statement, as suffered by one Head Constable Rajinder Singh, who is also an injured/victim, which lays the bedrock for prosecution, to register the instant FIR. The contents of the FIR reads as under:-

“Statement of Head Constable Rajinder Singh, No. 249 ASR- R alias Happy son of Late Hardev Singh resident of Thoba Police station Ramdas, District Amritsar, aged about 37 years, Mobile No. 98140- 44831, stated that I am resident of above mentioned address and I am performing my duty in department of Punjab Police at Police post Baba Bakala. Police station Beas, District Amritsar Rural. On 09.01.2024. at about 5:00 pm, I was coming towards my village Thoba from my

duty place in my car bearing registration no. PB02-CJ-5386, mark Swift Desire of white colour and when I reached near the village Anaitpura Bagh then I called ASI Kuldeep Singh, posted at Police post Chamiyari, Police station Ajnala, and informed him that we both are on duty at the Maghi fair at Sri Muktsar Sahib and he told me to send him the list of duty and I slowed down my car and started sending him the list of duty. At that time, one car mark Polo of white colour without number plate came from behind my car from Ajnala side, and they stopped their car in front of my car. Out of which, three clean shaven persons and one Sikh person alighted and one of them was having datar. another person was having iron toka and the third was having 32 bore pistol and sikh person who was driver was empty handed and driver Sikh person right after getting out of his car said that he may not be spared today, after hearing this, rest of assailants attacked and broke the car windows with their respective weapons and they dragged me out of the car and gave me beatings The person who holding the pistol, pointed his pistol towards me and fired shot towards me with an intention to kill me, which hit on my little finger of left hand. I raised a noise "Mar-ditta Mar-Ditta" then all the assailants with their respective weapons ran away from the spot in their car towards G.T. Road Gaggomahal. Due to many injuries, I got my treatment from private Hospital Baba Deep Singh Ajnala. Being a police officer, I have been looking for the said persons till date, who could not be found Today I along with Sukhwant Singh son of Sh. Dilbagh Singh resident of Dhangai Police station Ramdas, came to inform you, you met us, appropriate strict action be taken against unidentified persons. I be given justice. Statement has been recorded, heard and is correct. Sd/- Rajinder Singh 249 R, Head Constable Rajinder Singh No. 249 ASR-R, verified by Sd/- Sukhwant Singh 97819-47480, attested by Sukhjot Singh ASI/ IC PP Police post Gaggomahal, Police station Ramdas, dated 12.1.2024."

3. What surfaced from the perusal of the instant FIR is that, no one has been named in the FIR, in fact, it has been registered against some unknown persons. During investigation, on dated 17.03.2024, DDR No.19 was registered, wherein Nishan Singh (present petitioner), Gurjot Singh, Gurjit Singh and Simranjit Singh, were nominated as an accused in the instant FIR. Consequently, on dated 20.03.2024, present petitioner and Gurjot Singh, were arrested and both were got identified from the complainant, i.e. HC Rajinder Singh.



4. As per the prosecution case, present petitioner (Nishan Singh) got recovered one iron *dater*, which according to the prosecution was used in the commission of the instant crime. It further reflects from the record that out of total 4 accused persons named in the investigation, three have already been arrested, except one Simranjit Singh.

5. It is a positive case of the prosecution that the HC Rajinder Singh, complainant, has suffered a gunshot injury on little finger of his left hand.

6. In asking for the relief (*supra*), learned counsel for the petitioner submits that the instant FIR, was registered initially against some unknown persons, that too after delay of two days, of the alleged occurrence. Therefore, there is a considerable delay in lodging the FIR (*supra*), as the date of occurrence is on dated 09.01.2024, whereas, the instant FIR has been lodged on dated 12.01.2024.

7. He further placed reliance upon the order dated 2.8.2024 passed by this Court in CRM-M-38859-2024, whereby, co-accused has been granted the relief of regular bail and submits that the case of the petitioner is on similar footing.

8. He further submits that the petitioner was arrayed as an accused in the instant FIR on dated 17.03.2024, i.e. after the delay of more than two months.

9. He also submits that the petitioner is behind the bars since 20.03.2024, and the challan has already been presented, whereas, the charges are yet to be framed.



10. *Per contra*, the learned State counsel vociferously opposes the asked for relief of grant of regular bail to the petitioner, on the ground that the accused persons had an audacity to attack upon the police official, who was on duty.

11. He further submits that the victim (HC Rajinder Singh) suffered a gunshot injury on his little finger, therefore, the petitioner is not entitled to the asked for relief.

12. He has placed on record a custody certificate *qua* the petitioner, which reflects that the petitioner has suffered incarceration of 5 months and 14 days as on today. The custody certificate further reflects that the petitioner is involved in one other case under the NDPS Act.

13. He also submits, on instructions from ASI Avtar Singh, that the challan has been presented in the instant case, however, charges are yet to be framed.

14. Be that as it may, this Court is of the considered view that further incarceration of the petitioner is not warranted in the instant matter and he deserves to be released on regular bail, for the reasons assigned hereinbelow:-

- i. There is a considerable delay in the registration of instant FIR;
- ii. The petitioner is not named in the FIR;
- iii. No specific injury has been attributed to the present petitioner in the FIR (*supra*);
- iv. The petitioner has suffered incarceration of 5 months and 14 days on today;
- v. The veracity of the allegation is yet to be established by the prosecution, by leading cogent evidence before the trial court concerned;



vi. Finally, the trial is yet to begin, therefore, conclusion of the trial would take long time;

vii) The co-accused has been granted the relief of regular bail by this Court vide CRM-M-38859-2024.

15. Consequently, without commenting upon the merits and circumstances of the present case, the present petition is **allowed**. The petitioner is ordered to be released on bail, on furnishing of his bail bond and surety bond to the satisfaction of concerned Chief Judicial Magistrate/trial Court/Duty Magistrate.

16. However, it is clarified that if in future, the petitioner is found indulging in commission of similar offences, as is involved herein, the respondent-State shall be at liberty to make an appropriate application seeking cancellation of regular bail, as granted by this Court. Moreover, anything observed here-in-above shall have no effect on the merits of the trial and is meant for deciding the present petition only.

September 10, 2024
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(KULDEEP TIWARI)
JUDGE

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