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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-45834-2023 (O & M)
Date of decision: 05.03.2024

Arwinder Singh

.... Petitioner

V/s

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE JASJIT SINGH BEDI

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

Mr. Deepinder Singh Brar, Sr. DAG, Punjab.

JASJIT SINGH BEDI, J. (Oral)

The prayer in the present petition under Section 439 Cr.P.C. is for the grant of regular bail to the petitioner in case FIR No.88 dated 28.12.2022 under Sections 379-B, 34 and 201 IPC and Sections 25 & 27 of the Arms Act, registered at Police Station Sehna, District Barnala.

2. The present FIR came to be registered at the instance of Inderjit Garg and reads as under:-

“12. First Information contents (Details): Copy of statement, 2. statement of Inderjit Garg son of Surajbhan son of Ram Ji Das, resident of Gurdwara Sewa Sar Wali Gali, Nihal Singh, aged about 53 years, mobile number 94176-22503 stated that I am a resident of abovesaid address. I am running a grocery shop at Nihal Singh Wala, besides this, I have a rice mill on contract at Himmatpura. Today me and my son Balram Garg by riding our car I-20 bearing registration number CH-01AR-3752 going towards Barnala for sale and purchase of paddy with Ajay Garg son of Jaswant Rai at Barnala. From where we received our due payment of Rs.5 lacs on account of selling of paddy and were going towards Nihal Singh Wala, the

payment was kept in a black polythene and has been kept in the coat which I was wearing. When we reached at toll plaza Jagjitpura, the time would be around 06:45 PM. There was a bread and tea langar, where on my request, my son stopped the car and got out of the car and put 50 rupees in the langar and sat in the car with two cups of tea. Among the young boys standing there, two boys came to us who were having shawl on their body, had their hair tied with parna and had a muffler on their throats. They said that they were serving at Langa and they have to go to Pakhon, you may drop us by car. When we reached 500 meters further, we told them that we have to go through the bridge and they may get off here. Upon which they asked my son to turn on the light in the car. My son turned on the light of his mobile phone, then the two young men behind us pulled out their pistols and put it on our ears and asked us to stop the car. My son Balram Garg stopped the vehicle and got down from the vehicle and in this way, I also got down from the vehicle and in order to intimidate us they shot one fire on the road upon which we got afraid. They on the gun point had snatched Rs.5 lacs from me which I was holding in my hand and ran away by foot. Both of us got scared and stopped the vehicle and told the whole thing at our house. Now we came to inform you about the incident. Legal action should be taken against these two unknown persons by tracing them. Sd/- Inderjit Garg Verification Sd/-Balram Garg”.

3. During the course of investigation, the statement of one Karam Singh was recorded. On the basis of which Arvinder Singh @ Arwinder Singh (petitioner) and Lovepreet Singh were nominated as accused in the present case.

4. The learned counsel for the petitioner contends that the complainant-Inderjit Garg and his son Balram Garg were examined as Pws

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No.1 and 2 respectively and have not supported the prosecution case. As the petitioner was in custody since 06.01.2023 and only 03 out of the 13 prosecution witnesses had been examined so far, the Trial of the present case was not likely to be concluded anytime soon. Therefore, the petitioner was entitled to the concession of bail.

5. The learned counsel for the State has filed a reply dated 04.03.2023 which is taken on record. While referring to the said reply, he contends that pursuant to the arrest of the petitioner, Rs. 4 lacs in cash and two country-made pistols were recovered from him and his co-accused. Therefore, as the offence was established beyond reasonable doubt, the petitioner was not entitled to the concession of bail. He, however, concedes that both the material witnesses had turned hostile, that the petitioner was in custody since 06.01.2023 and only 03 out of the 13 prosecution witnesses had been examined so far.

6. I have heard the learned counsel for the parties.

7. Admittedly, two material prosecution witnesses have not supported the prosecution case. Whether the remaining evidence is sufficient to affix the guilt of the petitioner and his co-accused shall be adjudicated upon during the course of the Trial. The petitioner is stated to be in custody since 06.01.2023 and only 03 of the 13 prosecution witnesses have been examined so far. Therefore, the Trial of the present case is not likely to be concluded anytime soon. In this situation, the further incarceration of the petitioner is not required.

8. Thus, without commenting upon the merits of the case, the present petition is allowed and the petitioner, namely, Arwinder Singh is

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ordered to be released on bail to the satisfaction of the Trial Court/Duty Magistrate concerned.

9. The petitioner shall appear on the first Monday of every month before the police station concerned till the conclusion of the trial and furnish an affidavit each time that he is not involved in any other case(s)/crime except the case(s) mentioned in the State reply dated 04.03.2024.

10. In addition, the petitioner (or anyone on his behalf) shall prepare an FDR in the sum of Rs.1,00,000/- and deposit the same with the Trial Court. The same would be liable to be forfeited as per law in case of the absence of the petitioner from Trial without sufficient cause.

(JASJIT SINGH BEDI)
JUDGE

March 05, 2024

sukhpreet

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