



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

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CRM-M-46358 of 2024

DATE OF DECISION :- 22.10.2024

Balvir Kumar @ Mani

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE SUMEET GOEL

Present:- Mr. Navkiran Singh, Advocate for the petitioner.

Mr. Anup Singh, AAG, Punjab.

SUMEET GOEL, J. (Oral)

1. Present petition has been filed under Section 483 of BNSS, 2023 for grant of regular bail to the petitioner in case bearing FIR No.46 dated 03.06.2024, registered for the offences punishable under Sections 307, 452, 354-A(2), 506, 427, 148, 149 of IPC and Section 25 of the Arms Act at Police Station Garhdiwal, District Hoshiarpur.
2. The case set up in the FIR in question (as set out in the present petition by the petitioner) is as follows:-

“Statement of Chander Shekhar son of Binder Pal, resident of Ward No.10, Valmik Mohalla, Garhdiwala, Police Station Garhdiwala, District Hoshiarpur, aged about 34 years, Phone No.88474-20165. Stated that I am resident of above mentioned address and am a singer, instrument player by profession. On 2.6.2024 around 9.25PM, I was present inside my house then Mani, Deepa, Nandu sons of Ditt Kumar, Gaurav son of Som Raj, Yogeshwar son of Sukha Ram, Som Raj, Sukha Ram sons of Dharampal, Sameer @Mithu son of Sandeep @ Kala Malik, Rajinder Kumar @ Dudu son of Hardesh Lal, Jobanpreet,



Abansh, Sayeed Khan @ Khan son of Mohd. Khan, Ditt Kumar @ Bittu son of Mehru, Sumit son of Pal, Pal and Bheema sons of Harmesh Lal, all residents of Valmik Mohalla Garhdiwal, Jyoti son of Jarnail Singh resident of Bodla Police Station Dasuya, Gagandeep @ Gaggi resident of Balala Police Station Garhdiwala, all of them armed with deadly weapons, while raising exhortation forcibly entered my house, out of which Mani son of Ditt Kumar took out a pistol from his belt area and fired a shot at me with the intention to kill me. That in order to protect myself, I bend down and shot missed me. Then Jyoti son of Jarnail Singh resident of Bodla fired a shot in air, then Deepa gave a blow with his hand held Sariya (iron rod) which hit me on the Khuch of my right leg, then second blow was given by Nandu son of Ditt Kumar with his hand held stick, which hit me on the heel of left foot. Then above said assailants started hitting me with their toes. While I was lying down, due to which I have suffered internal injuries and I started raising hue and cry, then my aunt (Tayi) Pushpa Rani wife of Chaman Lal came to the spot. Sukha Ram, Som Raj sons of Dharampal and Sameer started assaulting my aunt and Sukha Ram and Som Raj while holding my aunt from chest, tore her clothes from chest. Both of us raised hue and cry then people started gathering, then above said assailants while leaving and hurling abuses, damaged my card No.PB-07-AB- 3777 make Verna parked in my street. That while leaving in the street. they inflicted injuries upon Harsh son of Dharminder Kalyan resident of Gardhiwala with the intention to kill him. Reason for ill-will is that litigation is pending between my cousin Jatinder Kumar @ Sabi and above said persons, due to which above said assailants said whoever has link with them, will have to face these consequences. Then on seeing people from neighbourhood gathering, these above said assailants fled from the spot along with their weapons. Then my friend Ankush and other respectables after arranging for a vehicle, got me and my



companions admitted at C.H.C. Bunga, where doctor gave me first aid and prepared MLR regarding my injuries and due to hot weather, I came back to my house and discussed with my family about the fight, who suggested that we should inform the police. On which I alongwith Pankaj Kumar son of Kishan Lal resident of Valmik Mohalla Gardhiwala was coming to give the information but you have met me. Statement got recorded, action be taken against above said accused persons. Statement got recorded, read heard and is correct. Sd/- Chander Shekhar, Pankaj Kumar (witness), verified Satpal Singh ASI, Police Station Garhdiwala dated 03.06.2024.”

3. Learned counsel for the petitioner has argued that the petitioner is in custody since 09.08.2024. Learned counsel has further argued that the petitioner has been falsely implicated into the FIR in question. Learned counsel for the petitioner has further argued that the petitioner is sought to be arraigned as an accused for an offence under Section 307 of the IPC by alleging that the petitioner had fired upon a person but no one has been hit by the said fire. Learned counsel for the petitioner has further argued that there are total 16 prosecution witnesses and culmination of trial will take its own time. In this view of the matter, learned counsel has prayed for grant of regular bail.

4. Short reply by way of affidavit of Sh. Davinder Singh, PPS, Deputy Superintendent of Police, Sub Division Tanda, District Hoshiarpur filed in the Court today. The same be taken on record.

Learned State counsel has opposed the present petition arguing that the allegations raised are serious in nature and thus the petitioner does not deserve the concession of the regular bail. Learned State counsel seeks to place on record custody certificate dated 21.10.2024 in Court, which is taken on record.



5. I have heard counsel for the parties and have gone through the available records of the case.

6. The petitioner was arrested on 09.08.2024 whereinafter investigation was carried out and challan stands presented on 30.09.2024. Total 16 prosecution witnesses have been cited and culmination of trial, but of course, will take its own time. The rival contention of learned counsel for the parties; as to whether the petitioner has been falsely implicated into the FIR in question & whether offence under Section 307 of IPC is made out against the petitioner from the factual matrix of the case; shall be gone into during the course of trial. This Court does not deem it appropriate to delve deep into these rival contentions, at this stage, lest it may prejudice the trial. Nothing tangible has been brought forward to indicate the likelihood of the petitioner absconding from the process of justice or interfering with the prosecution evidence. As per custody certificate dated 21.10.2024 filed by learned State counsel, the petitioner has already suffered incarceration for about 02 months and 12 days. As per the said custody certificate, the petitioner is said to be involved in other FIR(s) also. Indubitably, the antecedents of a person are required to be accounted for while considering a regular bail petition preferred by him. However, this factum cannot be a ground sufficient by itself, to decline the concession of regular bail to the petitioner in the FIR in question when a case is made out for grant of regular bail *qua* the FIR in question by ratiocinating upon the facts/circumstances of the said FIR. Reliance in this regard can be placed upon the judgment of the Hon'ble Supreme Court in *Maulana Mohd. Amir Rashadi vs. State of U.P. and another, 2012(1) R.C.R. (Criminal) 586*; a Division Bench judgment of the Hon'ble Calcutta High Court in case of *Sridhar Das vs. State, 1998(2)*



R.C.R. (Criminal) 477 & judgments of this Court in ***CRM-M-38822-2021*** titled as ***Akhilesh Singh vs. State of Haryana***, decided on 29.11.2021 and ***Balraj vs. State of Haryana, 1998(3) R.C.R. (Criminal) 191.***

Suffice to say, further detention of the petitioner as an undertrial is not warranted in the facts and circumstances of the case.

7. In view of above, the present petition is allowed. Petitioner is ordered to be released on regular bail on his furnishing bail/surety bonds to the satisfaction of the Ld. concerned CJM/Duty Magistrate. However, in addition to conditions that may be imposed by the concerned CJM/Duty Magistrate, the petitioner shall remain bound by the following conditions:-

- (i) The petitioner shall not mis-use the liberty granted.
- (ii) The petitioner shall not tamper with any evidence, oral or documentary, during the trial.
- (iii) The petitioner shall not absent himself on any date before the trial.
- (iv) The petitioner shall not commit any offence while on bail.
- (v) The petitioner shall deposit his passport, if any, with the trial Court.
- (vi) The petitioner shall give his cell-phone number to the Investigating Officer/SHO of concerned Police Station and shall not change his cell-phone number without prior permission of the trial Court/Illaq Magistrate.
- (vii) The petitioner shall not in any manner try to delay the trial.

8. In case of breach of any of the aforesaid conditions and those which may be imposed by concerned CJM/Duty Magistrate as directed hereinabove or upon showing any other sufficient cause, the



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State/complainant shall be at liberty to move cancellation of bail of the petitioner.

9. Ordered accordingly.

10. Nothing said hereinabove shall be construed as an expression of opinion on the merits of the case.

11. Since the main case has been decided, pending miscellaneous application, if any, shall also stands disposed off.

(SUMEET GOEL)
JUDGE

22.10.2024

P.Singh

Whether speaking/reasoned

Yes/No

Whether Reportable

Yes/No