

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

CRM-M-53140-2023 (O&M)

Reserved on: 12.03.2024

Pronounced on: 19.03.2024

2024:PHHC: 039990

SATISH KUMAR @ TEESHA

. . . . Petitioner

Vs.

STATE OF PUNJAB

. . . . Respondent

CORAM: HON'BLE MR JUSTICE DEEPAK GUPTA

Present: - Mr. Arshpreet Khadial, Advocate, for the petitioner.

Mr. Amandeep Singh, DAG, Punjab.

Mr. I.S. Khara, Advocate, for the complainant.

DEEPAK GUPTA, J.

Petitioner prays for his release on regular bail, by way of this petition filed under Section 439 CrPC, in a case arising out of FIR No.77 dated 14.06.2022, registered at Police Station Raman, District Bathinda under Sections 302/307/452/506/427/148/149 IPC and Sections 25/27 of the Arms Act [later on challan was presented under Sections 302/ 307/ 452/506/ 427/34 IPC and Sections 25/27 of the Arms Act].

2. In compliance of the order dated 01.02.2024, reply by way of an affidavit of Rajesh Snehi Batta, Deputy Superintendent of Police, Sub Division Talwandi Sabo, District Bathinda, on behalf of the respondent-State has been filed and the same is taken on record.

3. Case of the prosecution has been summarized in para No.2 of the order dated 05.10.2023 (Annexure P2), passed by the ld. ASJ, Bathinda, which read as under:

“Summary of the case of the prosecution is that FIR has been registered on the statement of Sandeep Singh alias Harpreet Singh son of Harphul Singh resident of Village Sekhu, Tehsil Talwandi Sabo, Distt. Bathinda aged 27 years, wherein he has stated that his elder brother Gurpreet Singh is a tailor at Super Market, Raman Mandi. There is a shop of Satish Kumar son of Kashmiri Lal resident of Raman Mandi by the name of Bhagwati Bag and Gift House adjoining their shop. On 13.06.2022, his brother Gurpreet Singh had not come to the shop due to some domestic work and the complainant was alone on the shop. One day earlier due to rush of work the water in the camper had finished and in the afternoon, the complainant went to the shop of Satish Kumar to drink water and took a glass of water from their camper. On this the owner of the shop namely Satish Kumar started quarreling with complainant and abused him and stated that the complainant should not enter his shop without permission. On this the complainant felt offended and he came back to his shop and in the evening when he returned to back his house at Village Sekhu then he told the aforesaid episode to his brother Gurpreet Singh, who told him not to worry as he lodge a protest with Satish Kumar. On 14.06.2022 the complainant and his brother Gurpreet Singh were present at their shop. The complainant alongwith Varinder Singh son of Leela Singh resident of Sekhu who was learning tailoring at their shop started clearing the shop and his brother Gurpreet Singh after having a morning prayer stood on the gate of the shop. In the meanwhile their neighbouring shop keeper Satish Kumar came out of his shop then his brother Gurpreet Singh lodged a protest with him regarding the one day earlier episode but Satish Kumar instead of feeling sorry got angry and went away. After some time at about 10.15 AM aforesaid Satish Kumar alongwith Munish Kumar alias Shiba, father Kashmiri Lal, uncle Jagdish Kumar, Cousin Rajan Kumar son of Jagdish Kumar, Ajay Verma and Aman Soni alias Joti Verma sons of Vijay Kumar resident of Raman Mandi, grandmother of Munish Kumar whose name was not known who was holding a pistol rapped in a dupata right hand came in front of complainant shop and after coming there exhorted the complainant party to come out of their shop as they would be taught a lesson for lodging protest with Satish Kumar. On hearing the exhortation the complainant and his brother came out of their shop then Satish Kumar and Rajan caught hold of Gurpreet Singh but the complainant rescued him with great difficulty and complainant and his brother ran inside their shop to save themselves. In the

meanwhile on hearing alarm Amritpal Singh son of Kaka Singh came near the shop of complainant and at that time Munish Kumar alias Shiba after snatching pistol from his grandmother fired a shot towards complainant party in order to kill them and the shot hit the mirror of their shop and then all the aforesaid persons entered their shop and started quarreling with the complainant party. Satish Kumar and Jagdish Kumar caught hold of Gurpreet Singh from his arms and Rajan and Kashmiri Lal caught hold of complainant from his arms and then Munish Kumar alias Shiba fired 3-4 shots towards complainant and his brother in order to kill them. One of the shot fired by Munish Kumar hit the left flank of Gurpreet Singh and one shot fired by Munish Kumar also hit on the left side above the waist of complainant. The complainant party raised alarm Na Maro Na Maro, Aman Soni alias Joti Verma and Ajay Verma gave slaps and fist blows to them in the meanwhile people started gathering and all the aforesaid accused persons ran away from the spot alongwith their weapons. It might be that Gurpreet Singh could have suffered more than one fire arm injury as Gurpreet Singh fell unconscious at the spot thereafter the complainant and his brother Gurpreet Singh were taken to Civil Hospital Talwandi Sabo by Manpreet Singh Amritpal Singh etc. after arranging a conveyance from their after getting first aid they were referred to Civil Hospital Bathinda from where they were referred to MAX Hospital, Bathinda. Gurpreet Singh died on the way to the hospital and complainant was under treatment at MAX hospital. The motive behind the occurrence is that earlier the complainant party used to drink water from other shop but on the day of occurrence Satish Kumar had quarrel with him for drinking water from his camper and insulted complainant and Gurpreet Singh brother of complainant had lodged a protest with Satish Kumar and Satish Kumar in a fit of rage brought his associates and entered their shop and opened fire at complainant and his brother as a result of which his brother Gurpreet Singh died and complainant was under treatment.”

4. Ld. counsel contends that petitioner has been falsely implicated; that the only role attributed to the petitioner is that he along with Jagdish had caught hold of Gurpreet Singh by arms and then, Munish Kumar @ Shiba had fired 3-4 shots towards complainant as well as Gurpreet Singh (deceased). Ld. counsel further contends that petitioner is a disabled person

to the extent of 40% as is evident of the disability certificate Annexure P5 and so, he could not be in a position to catch hold of the deceased. Ld. counsel also contends that co-accused Joti Verma @ Jyoti Verma @ Aman Soni and Ajay Verma have already been allowed bail by this Court vide order dated 22.08.2023 and 11.09.2023, respectively. Ld. counsel also contends that petitioner is in custody for the last more than 1 year and 9 months; that trial may take time to conclude and so, in all the circumstances, he be allowed bail.

5. Ld. State counsel along with counsel for the complainant opposed the petition by submitting that petitioner is specifically named in the FIR, who had caught hold of the deceased and only then Munish Kumar @ Shiba had fired shots killing Gurpreet Singh.

6. Ld. counsel for the complainant though does not dispute that petitioner is disabled, but contends that such a person has more power in his healthy limbs. He also submits that case of co-accused Joti Verma @ Jyoti Verma @ Aman Soni and Ajay Verma, who were allowed bail, was on different footings. Prayer is made for rejecting the bail petition.

7. I have considered submissions of both the side and have appraised the record.

8. It is not disputed that it is Munish Kumar @ Shiba, who is attributed to have fired shots at Gurpreet Singh (deceased) as well as complainant Sandeep Singh, which resulted in the death of Gurpreet Singh. It will be a matter of trial, as to whether the petitioner had caught hold of the deceased or not at the time, when Munish Kumar @ Shiba fired shots from his pistol, having regard to the fact that petitioner is 40% disabled person, as

per the disability certificate (Annexure P5). As per the custody certificate, petitioner is in custody ever-since 17.06.2022 i.e. for the last approximately 1 year and 9 months. Trial may take time to conclude.

9. Having regard to the above facts and circumstances, but without commenting anything further on merits of the case, petition is allowed. Petitioner is admitted to regular bail on his furnishing requisite bail bonds and surety bonds to the satisfaction of the trial Court/Duty Magistrate concerned, observing usual terms and conditions.

Pending application(s), if any, also stand disposed of.

19.03.2024
Vivek

(DEEPAK GUPTA)
JUDGE

Whether speaking/reasoned?
Whether reportable?

Yes
No