

CRM-M-55104-2023

Date of Decision:07.02.2024

Jobanjit Singh

...Petitioner

VS.

State of Punjab

...Respondent

Coram : Hon'ble Mr. Justice N.S. Shekhawat**Present :** Mr. Sandeep Arora, Advocate
for the petitioner.

Mr. I.P.S. Sabharwal, DAG, Punjab.

N.S.Shekhawat J. (Oral)

1. The petitioner has filed the instant petition under Section 439 of the Cr.P.C. with a prayer to grant regular bail to him in case FIR No.77 dated 28.04.2023 registered under Sections 307, 379-B (2), 120-B of IPC and Section 25 of Arms Act, 1959, at Police Station Beas, District Amritsar Rural.

2. Learned counsel for the petitioner contends that the petitioner was neither named in the FIR nor there is any averment in the FIR, which could prove the involvement of the petitioner in the crime in any manner. Learned counsel further contends that even on the date of occurrence, the petitioner was confined in jail and has been falsely involved in the present case on the basis of the statement suffered by co-accused in the police custody. He further contends that the police has not been able to collect any admissible evidence against the present petitioner in the present case. He further submits that the petitioner was arrested in the present case on 25.05.2023 and the final report under Section

173 Cr.P.C. has been presented against him. Even the charge has been framed against the petitioner, but the prosecution evidence is yet to formally commence against him. Thus, the trial Court may take considerable time in concluding the trial.

3. On the other hand, learned State counsel has vehemently opposed the submissions made by learned counsel for the petitioner on the ground that the petitioner was confined in jail and at his instance, two accused with muffled faces had opened the fire on the complainant. He further submits that the petitioner is involved in 9 more criminal cases, however, he admits that the petitioner is on bail in all other cases.

4. I have considered the rival submissions made by learned counsel for the parties and perused the record.

5. In the present case, even though serious allegations have been levelled against the present petitioner, but he is confined in jail for the last about 07 months and 23 days. Only charge has been ordered to be framed against the petitioner and the prosecution evidence has not formally commenced against him, so far. No doubt 09 more cases have been registered against the present petitioner, but the same does not serve as a ground to deny the concession of bail to the petitioner in the present case, especially when he has been able to make out a case for grant of bail in the present case. Thus, the petitioner can never be confined in jail for an indefinite period as the Hon'ble Supreme Court in the matter of ***Prabhakar Tewari Vs. State of U.P., and another 2020(1) R.C.R. (Criminal) 831*** has held that the pendency of several criminal cases against the accused cannot be the basis to refuse the prayer of bail. Similar

observations have been made by the Hon'ble Supreme Court in the matter of ***Maulana Mohd. Amir Rashadi Vs. State of U.P. and another 2012(1) R.C.R. (Criminal) 586.***

6. Without commenting any further on the merits of the case, the present petition is allowed and the petitioner is ordered to be released on bail subject to his furnishing bail bonds/surety bonds to the satisfaction of the trial Court/Duty Magistrate/Chief Judicial Magistrate, concerned, subject to the following conditions:-

- (i) *The petitioner shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case, so as to dissuade him to disclose such facts to the Court or to any other authority.*
- (ii) *The petitioner shall remain present before the Court on the dates fixed for hearing of the case.*
- (iii) *The petitioner shall not absent himself from the Court proceedings except on the prior permission of the Court concerned.*
- (iv) *The petitioner shall surrender his passport, if any, (if already not surrendered), and in case he is not holder of the same, he shall swear an affidavit to that effect.*
- (v) *The petitioner shall also file his affidavit before the concerned Court, mentioning his ordinary place of residence and number of mobile phone, which shall be used by him during the pendency of the trial. In case of change of place of residence/mobile number, he shall share the details with the concerned Court/learned Trial Court.*
- (vi) *In case, the petitioner involves in any other criminal activity, during the pendency of the trial, it shall be viewed seriously and the prosecution shall be at liberty to move a petition for cancellation of bail granted to him.*

- (vii) *The concerned Court may insist on two heavy local sureties and may also impose any other condition, in accordance with law, while accepting the bail bonds and surety bonds of the petitioner.*
- (viii) *The petitioner shall report every 1st and 3rd Monday of English calander month before the concerned SHO till the conclusion of the trial and SHO shall mark his presence by making an entry in the rojnamcha. In case, he does not report on every 1st and 3rd Monday before the concerned SHO, it shall be viewed seriously and the concession granted to him shall be liable to be cancelled and the State of Punjab shall be at liberty to move an appropriate application in this regard.*

07.02.2024
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(N.S.SHEKHAWAT)
JUDGE

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