



CRM-M-57558 of 2023

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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

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CRM-M-57558 of 2023
Date of Decision: 27.09.2024

Malkit Singh @ Bago

..... Petitioner

Versus

State of Punjab

..... Respondent

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr. Rajiv Kumar Saini, Advocate and
Mr. Parivartan Singh, Advocate
for the petitioner.

Mr. P.C. Bhandari, AAG, Punjab.

VIKAS BAHL, J (ORAL)

1. This is the first petition under Section 439 Cr.P.C. for grant of regular bail to the petitioner in FIR No.37 dated 11.04.2022, registered under Sections 304 and 34 IPC and Sections 25/27 of the Arms Act, at Police Station Sekhwan, District Gurdaspur.

2. Learned counsel for the petitioner has submitted that the present case has been registered on the statement of Baldev Singh son of Bachan Singh, who is the father of the deceased Manjinder Singh, and in the FIR it has been stated by the said Baldev Singh that on 10.04.2022, his cousin Ajit Singh had informed him on the phone that one Sahil Sharma had called and told that someone had fired a gun shot at Manjinder Singh during a quarrel and that he had been taken to the hospital. It is further alleged in the FIR that the complainant came to know that Ajay @ Prontha had a

quarrel with some persons and he had called Manjinder Singh (deceased)

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along with some other boys, to the place, where the quarrel had taken place and there some unknown persons had shot Manjinder Singh. It is submitted that the petitioner was not named in the FIR and a supplementary statement dated 17.04.2022 was recorded by the complainant Baldev Singh and as per the said statement, Sahil Sharma (PW-5) and Manpreet Singh @ Sabi (PW-4) were the eye witnesses in the present case, whereas, the complainant was not an eye witness. It is contended that even as per the version given in the supplementary statement dated 17.04.2022, deceased Manjinder Singh, petitioner as well as co-accused Davinder Singh all belonged to the party of Ajay Masih @ Prontha and were on the same side and it was the opposite party who had started throwing brick bats towards the petitioner and the deceased and that the fire shot was to save themselves. It is further submitted that the eye witnesses Manpreet Singh and Sahil Sharma have been examined as PW-4 and PW-5, respectively and both the said two witnesses have specifically stated in their examination-in-chief that they do not know how Manjinder Singh had received the firearm injury and as to who was the person, who inflicted the said injury and that the said witnesses have been declared hostile.

3. Learned counsel for the petitioner has submitted that the complainant Baldev Singh, who is the father of the deceased, has been examined as PW-1 and even from his examination-in-chief, it is apparent that he was not an eye witness and he had received the information from Ajit Singh, who had been informed by Sahil Sharma, about the incident and as per his evidence, Manjinder Singh was accidentally injured and the deceased belonged to the same party as the petitioner and co-accused

Davinder Singh, who were being attacked with brick bats. It is further



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submitted that since the eye witnesses i.e., PW4 and PW5 have not supported the case of the prosecution, thus, there is every likelihood that the petitioner would be acquitted and that the petitioner was arrested on 14.02.2023 and was thereafter granted the interim bail by a Co-ordinate Bench of this Court on 06.02.2024 and the said interim bail was continuing till date and during the said interim bail, he was never misused the concession of the said interim bail. It is further submitted that in the present case, investigation is complete and challan has been presented and there are 30 prosecution witnesses, out of which, 13 witnesses are yet to be examined and thus, trial is likely to take time. It is further submitted that co-accused of the petitioner Davinder Singh, who is on the same footing as the petitioner, has been granted the concession of regular bail by this Court, vide order dated 21.08.2023 passed in CRM-M-39516-2023.

4. Learned State counsel, on the other hand, has opposed the present petition for grant of regular bail and has submitted that the petitioner is involved in two other cases and that when petitioner was trying to snatch the pistol from co-accused Davinder Singh, it had accidentally hit Manjinder Singh and thus, it was the petitioner and the co-accused Davinder Singh who were the prime accused persons in the case.

5. Learned counsel for the petitioner in rebuttal has submitted that the petitioner is on bail in **both the said cases and has** further relied upon the judgment of Hon'ble Supreme Court in "**Maulana Mohd. Amir Rashadi Vs. State of U.P. and another**", reported as 2012 (2) SCC 382 to contend that the facts and circumstances of the present case are to be seen while deciding a bail application and the bail application of the petitioner

cannot be rejected solely on the ground that the petitioner is involved in



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other cases. The relevant portion of the said judgment is reproduced hereinbelow:-

“As observed by the High Court, merely on the basis of criminal antecedents, the claim of the second respondent cannot be rejected. In other words, it is the duty of the Court to find out the role of the accused in the case in which he has been charged and other circumstances such as possibility of fleeing away from the jurisdiction of the Court etc.”

6. This Court has heard the learned counsel for the parties and has perused the paper book.

7. The FIR in the present case was registered on the statement of Baldev Singh on 11.04.2022 against unknown persons. A perusal of the said FIR would show that complainant Baldev Singh was not an eye witness and he had got information about the death of his son from Ajit Singh, who had earlier received the said information from the eye witness Sahil Sharma. The said Sahil Sharma has been examined as PW-5 and during his examination-in-chief, he has specifically stated that he is not aware as to who had given the injury to the deceased Manjinder Singh. As per the supplementary statement of complainant Baldev Singh recorded on 17.04.2022, it is apparent that in addition to Sahil Sharma, one Manpreet Singh @ Sabhi was also an eye-witness. The said Manpreet Singh @ Sabhi has also been examined as PW-4 and has given the evidence on the same lines as PW-5 and has not supported the case of the prosecution. Even as per the case of the prosecution, the petitioner Malkit Singh, Manjinder Singh (deceased), Davinder Singh (co-accused) and Ajay Masih @ Prontha were all on the same side and they had a dispute with Dilbagh Singh. The

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ordinate Bench of this Court, vide order dated 06.02.2024 and till date, there is nothing on record to show that the petitioner has misused the concession of said interim bail and the investigation is complete and challan has also been presented and out of 30 witnesses, 13 witnesses are yet to be examined and thus, the trial is likely to take time. The co-accused of the petitioner Davinder Singh who is on the same footing as the petitioner, has been granted the concession of regular bail by this Court, vide order dated 21.08.2023 passed in CRM-M-39516-2023.

8. Keeping in view the above said facts and circumstances and also in view of the law laid down in the above-said judgment, the present petition is allowed and the petitioner is ordered to be released on bail on his furnishing bail / surety bonds to the satisfaction of the concerned trial Court/ Duty Magistrate and subject to him not being required in any other case.

9. However, it is made clear that in case, any act is done by the petitioner to threaten or influence the complainant or any of the witnesses, then it would be open to the State to move an application for cancellation of bail granted to the petitioner.

10. Nothing stated above shall be construed as a final expression of opinion on the merits of the case and the trial would proceed independently of the observations made in the present case.

27.09.2024*D.Bansal***(VIKAS BAHL)
JUDGE**

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