



CRM-M-57553-2023 and connected case

1

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

112 (I) CRM-M-57553-2023
Date of Decision : September 09, 2024

SANJEEV KUMAR @ HAPPY -PETITIONER

V/S

STATE OF PUNJAB -RESPONDENT

(II) CRR-744-2024 (O&M)

SANJEEV KUMAR ALIAS HAPPY -PETITIONER

V/S

STATE OF PUNJAB -RESPONDENT

CORAM: HON'BLE MR. JUSTICE KULDEEP TIWARI

Present: Ms./Mrs. G.K.Mann, Sr. Advocate with
Mr. Gursharan Singh, Advocate
for the petitioner (in both cases).

Mr. Pardeep Bajaj, D.A.G., Punjab.

Mrs. Himani Kapila, Advocate
for Mr. Prabhjot (son of deceased).

KULDEEP TIWARI, J. (ORAL)

CRM-M-57553-2023

1. Through the instant petition, as instituted under Section 439 of the Cr.P.C., the petitioner craves for indulgence of this Court for him being enlarged on regular bail, in case FIR No.182 dated 25.08.2018, under Sections 302/506/148/149 of the IPC, registered at P.S. Jandiala, District Amritsar.

GIST OF THE FIR

2. The genesis of the present FIR is embodied in the statement made

**CRM-M-57553-2023 and connected case****2**

by one Vijay Kumar Malhotra (hereinafter referred to as the 'complainant'). Succinctly stated, the allegations levelled in the present FIR are that, the petitioner along with his co-accused formed an unlawful assembly and in furtherance of their common intention, all of them committed murder of one Kulwinder Singh (hereinafter referred to as the 'deceased') and also criminally intimidated the complainant and his companions.

3. To be precise, the allegation(s) against the petitioner is that, he gave a bodkin (Sua) blow on the head of the deceased.

SUBMISSIONS OF THE LEARNED SENIOR COUNSEL FOR THE PETITIONER

4. The learned senior counsel for the petitioner, in her beseeching the relief of regular bail for the petitioner, has pitched the hereinafter extracted submissions:-

(i) As per prosecution version, although the petitioner is alleged to have given a bodkin (Sua) blow on deceased's head, however, the post mortem report makes it vividly apparent that there was no corresponding injury. Resultantly, the allegation(s) levelled against the petitioner are surrounded with falsity.

(ii) Most of the prosecution witnesses, while stepping into the witness box, have failed to identify the petitioner as one of the assailants, who inflicted injury(ies) on the deceased, and/or, the complainant party;

(iii) The present FIR is the outcome of premeditation and concoction, and, the petitioner has been arrayed as an accused therein merely to settle a political vendetta;

(iv) Petitioner's co/main accused Pargat Singh @ Pagga, to whom



the main injury has been attributed, has already been granted the concession of regular bail by the Hon'ble Supreme Court, as is evident from the order dated 16.02.2023 (Annexure P-5), therefore, since the petitioner's case is on a much better footing than his co-accused (supra), he also deserves the relief of regular bail;

(v) Petitioner has clean antecedents and has suffered incarceration of approx. 11½ months, therefore, his further incarceration is totally unwarranted, especially in view of the submissions (supra).

SUBMISSIONS OF THE LEARNED STATE COUNSEL, AND, LEARNED COUNSEL FOR THE SON OF THE DECEASED

5. *Per contra*, the learned State counsel and the learned counsel representing the deceased's son have vehemently opposed the submissions made by the learned senior counsel for the petitioner. They have argued that the reliance placed by petitioner's counsel upon Annexure P-5, wherein becomes enclosed bail order of petitioner's co-accused Pargat Singh @ Pagga, is a highly misplaced reliance, inasmuch as, Pargat Singh @ Pagga was granted bail by the Hon'ble Supreme Court, on account of his long term of incarceration i.e. approx. 04 years. Resultantly, when the petitioner has suffered incarceration of merely about 11 months, he cannot claim parity with his co-accused (supra). It has been further argued that, in fact, earlier the petitioner was declared a "Proclaimed Offender" on two occasions, therefore, he does not deserve the relief of bail.

6. The learned counsel representing the deceased's son has also argued that, non identification of the petitioner by some of the prosecution witnesses has no relevance, inasmuch as, the son of the deceased had, while stepping into the witness box as PW-4, duly identified the petitioner as one of the assailants, who inflicted injuries on his father, and, as a result whereof, the latter died.



CRM-M-57553-2023 and connected case

4

REASONS FOR DISMISSING THE INSTANT REGULAR BAIL PETITION

7. This Court has heard the rival submissions made by the learned counsels for the contesting litigants and also made a meticulous survey of the entire record. However, for the reasons to be assigned hereinafter, this Court is not inclined to grant the relief of regular bail to the petitioner.

8. First of all, it is imperative to record here that, since the date of registration of the present FIR and until his arrest, the petitioner played hide and seek with the investigating agency and with the trial Court. The cause for drawing this inference stems from the hereinafter elaborated conduct of the petitioner.

9. Consequent upon registration of the present FIR, when the petitioner became an absconder and did not become arrested despite repeated efforts of the investigating agency, he was declared a “Proclaimed Offender” by the learned Magistrate concerned, vide order dated 17.07.2019. Thereafter, the apprehension of his arrest drove the petitioner to this Court to seek the relief of anticipatory bail, however, the petitioner’s anticipatory bail petition bearing No. CRM-M-35147-2019 was dismissed by this Court, vide order dated 28.08.2019. Feeling aggrieved by this dis-affirmative order, the petitioner preferred thereagainst an SLP (Crl.) No.45361 of 2019, which was also dismissed by the Hon'ble Supreme Court on 13.01.2020.

10. The ill-efforts of the petitioner did not pause here, as despite remaining unsuccessful upto the Hon’ble Supreme Court, he did not surrender before the learned trial Court, rather played a mischief by taking advantage of likeness of his name with one of his co-accused Sanjeev Kumar @ Lovely, who was declared innocent during investigation, inasmuch as, he got his name incorporated in the application under Section 319 of the Cr.P.C., filed by the learned Public

**CRM-M-57553-2023 and connected case****5**

Prosecutor for summoning the accused, who were declared innocent during investigation. This summoning application was allowed by the learned Additional Sessions Judge concerned, vide order dated 10.10.2019 and the petitioner along with his co-accused Rishal Saini, Rajdeep Saini, Kiran Kumar, Sanjeev Kumar @ Lovely, Rajinder Singh @ Dhot, Krishan Arora and Rakesh Kumar @ Rimpa, was summoned to face trial as additional accused.

11. Subsequently, when the petitioner approached this Court, through filing CRR No.660 of 2020 against the summoning order (supra), a Co-ordinate Bench of this Court, while issuing notice thereon vide order dated 02.03.2020, also granted interim bail to him. However, the petitioner could not reap the benefit of interim bail for long, inasmuch as, when it came to notice of a Co-ordinate Bench of this Court that: (i) the petitioner was found to be the prime accused in the investigation; (ii) the petitioner was a “Proclaimed Offender”; (iii) the petitioner remained unsuccessful in securing anticipatory bail upto the Hon’ble Supreme Court; (iv) the petitioner concealed the facts (supra); the revision petition (supra) was dismissed on 08.03.2021, with costs of ₹ 1,00,000/-. Moreover, the petitioner was directed to surrender before the learned trial Court and to apply for regular bail.

12. Surprisingly, instead of surrendering before the learned trial Court, in compliance of directions embodied in the order dated 08.03.2021, the petitioner again approached this Court through filing CRM-M-3030-2021, thereby assailing the proclamation order dated 17.07.2019. During pendency of this petition, since the petitioner did not surrender in compliance of directions (supra), therefore, he was again declared “Proclaimed Offender” by the learned Additional Sessions Judge, Amritsar, vide order dated 06.03.2023. Finally, the petition

**CRM-M-57553-2023 and connected case****6**

(supra) was disposed of by a Co-ordinate Bench of this Court, vide order dated 20.09.2023, thereby directing the petitioner to surrender before the learned trial Court on or before 25.09.2023. Accordingly, the petitioner surrendered on 25.09.2023 and he has been behind the bars since then.

13. It would also be apt to record here that, insofar as costs of ₹ 1,00,000/-, as became imposed upon the petitioner is concerned, the same has been deposited after a lapse of more than 03 years, i.e. on 19.07.2024, which impels this Court to draw an inference that this deposit has been made by the petitioner only for the purpose of securing the concession of regular bail.

14. Now, advertent to the argument made by the learned senior counsel for the petitioner that, the post mortem report does not make any echoing regarding existence of any injury corresponding to the bodkin blow attributed to the petitioner, this Court is of the opinion that, this argument requires its becoming appreciated by the learned trial Court, after evidence becomes adduced before it by the parties.

15. Proceeding further, this Court is also of the opinion that, when the deceased's son has, while stepping into the witness box as PW-4, duly identified the petitioner as one of the assailants, who inflicted injuries on the deceased, therefore, at this stage, no weightage can be assigned to the non-identification of petitioner by other prosecution witnesses. Resultantly, this argument of the learned senior counsel for the petitioner pales into insignificance.

16. Insofar as the petitioner's claim for him being treated alike his co-accused Pargat Singh @ Pagga is concerned, this Court has perused Annexure P-5, wherein becomes enclosed bail order of petitioner's co-accused Pargat Singh @ Pagga. What emanates from perusal of this order is that, the Hon'ble Supreme



CRM-M-57553-2023 and connected case

7

Court has granted bail to petitioner’s co-accused (supra) merely on account of his long term of incarceration i.e. approx. 04 years. Therefore, when the petitioner has suffered incarceration of merely about 11 months, he cannot claim parity with his co-accused (supra).

FINAL ORDER

17. As a sequel to the discussion made hereinabove, this Court does not find any merit in the instant petition. Consequently, the instant petition is **dismissed**, being devoid of merits.

18. However, anything observed here-in-above shall have no effect on the merits of the case and is meant for deciding the present petition only.

CRR-744-2024 (O&M)

19. Through the instant revision petition, the petitioner assails the order dated 09.01.2024, whereby, the learned Additional Sessions Judge, Amritsar, has dismissed his bail application under Section 167(2) of the Cr.P.C., in FIR No.182 dated 25.08.2018, under Sections 302/506/148/149 of the IPC, registered at P.S. Jandiala, District Amritsar.

20. The learned senior counsel for the petitioner opts not to address arguments in the instant revision petition, therefore, the same is **dismissed**.

21. Pending application(s) stand disposed of accordingly.

September 09, 2024
devinder

(KULDEEP TIWARI)
JUDGE

Whether speaking/reasoned : Yes/No
Whether Reportable : Yes/No