



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

119+254

CRM-11010 of 2024 in/and
CRM-M No.58236 of 2023
Date of Decision: 27.05.2024

Balwinder Singh @ Gopi ... Petitioner

Versus

State of Punjab and another ... Respondents

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present: Mr. Rakesh Kumar, Advocate,
for the applicant-petitioner.

Mr. Amandeep Singh Samra, AAG, Punjab,
for the respondent-State.

None for respondent No.2.

MANISHA BATRA, J.(Oral)

CRM-11010 of 2024

This is an application for correcting the name of police station as Subhanpur, District Kapurthala in all appropriate places in the present petition as the name of the police station has been wrongly mentioned as Sultanpur Lodhi, District Kapurthala in the petition.

The application is allowed as prayed for and the name of police station is ordered to be mentioned as Subhanpur, District Kapurthala in the petition instead of Sultanpur Lodhi, District Kapurthala.

The Registry is directed to do the needful.

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Main Case

1. The present petition has been filed under Section 439 of Cr.P.C. seeking regular bail in FIR mentioned below:-

FIR No.	Police Station	Sections
0091	Subhanpur, District Kapurthala	326, 323, 324, 341, 427, 354, 452, 436, 506, 148 and 149 of IPC

2. Brief facts of the case relevant for the purpose of disposal of the present petition are that the aforementioned FIR was registered on 09.07.2023 on the basis of statement recorded by the complainant Shinda Singh alleging therein that on 07.07.2023 at about 10:30 PM, his sons Mangal Singh and Soni were going towards village Kartarpur on their motorcycle when on the way, they were intercepted by the petitioner, co-accused Lakhwinder Singh @ Reepa, Malkit Singh, Swaran Singh, Bindu, Mannu and 2-3 unknown persons who were armed with weapons. They opened attack upon the sons of the complainant while damaging the oil tank of their motorcycle. His sons, however, managed to escape from the spot and rescue themselves. They gave information about the incident to the complainant on phone and on hearing so, when the complainant was rushing towards the spot, he was waylaid by the petitioner and co-accused on the way and they also caused injuries to him. The injury which has been attributed to the petitioner is that he gave a blow with datar on the left side of back of neck of the complainant. The complainant was rushed to the hospital by his sons. He alleged that subsequently, the petitioner and co-accused went to the house of his daughter "M" (name withheld) and while causing damage to the house of his daughter, the articles kept therein, they outraged her modesty also. The complainant, however, alleged that the cause

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of grudge on the part of the petitioner was that he was indulged in the business of supplying/dealing with intoxicating substances and smuggling thereof and the family of the complainant objected to the same.

3. After registration of FIR, the petitioner was arrested on 26.07.2023. Offence under Section 326 of IPC was added on 11.07.2023 on receipt of report regarding nature of injury No.5 which was opined to be grievous caused by short edged weapon. After completion of investigation, challan has been presented in the Court and the petitioner along with the co-accused is facing trial for commission of aforementioned offences. The petitioner had moved an application for grant of regular bail before the trial Court which had been dismissed on 29.09.2023.

4. It is argued by learned counsel for the petitioner that he has been falsely implicated in this case. The prosecution story is unnatural and improbable. He is in custody for a period of more than ten months. The trial is likely to take time. The injury which was attributed to him was not the same injury qua which offence under Section 326 of IPC has been added. With these broad submissions, it is urged that the petition deserves to be allowed. To fortify his argument, learned counsel for the petitioner has placed reliance upon the authorities cited as **Balvinder Singh @ Devinder Singh @ Billa v. State of Haryana**, 1996 (3) R.C.R. (Criminal) 693; **Bhola Singh v. State of Punjab**, 1997 (1) R.C.R. (Criminal) 449; **Gurmeet Singh v. State of Punjab**, 1998 (1) R.C.R. (Criminal) 742; **Pritpal Singh v. State of Punjab**, 2009 (24) R.C.R. (Criminal) 798; **Desh Raj v. Central Bureau of Investigation**, 2013 (1) R.C.R. (Criminal) 346; **Prabhakar Tewari v. State of U.P. and another**, 2020 (1) R.C.R. (Criminal) 831; **Maulana**

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Mohd. Amir Rashadi v. State of U.P. and another, 2012 (1) R.C.R. (Criminal) 586 and **Rakesh v. State of Haryana**, 2010 (3) R.C.R. (Criminal) 194.

5. Status report has been filed by the respondent No.1-State. It is submitted therein and learned State counsel has argued that there are serious and specific allegations against the petitioner. He has criminal antecedents and cases under the provisions of NDPS Act and other cases have been registered against him. There are chances of his absconding or intimidating the witnesses if extended benefit of bail. The victims are yet to be examined. Therefore, it is argued that the petition does not deserve to be allowed.

6. Respondent No.2 has been duly served but none has appeared on his behalf.

7. I have heard learned counsel for the petitioner as well as learned State counsel at considerable length and have gone through the record.

8. The petitioner along with the co-accused is alleged to have intercepted the sons of the complainant on the fateful day and to open attack upon them. He is further alleged to have formed membership of an unlawful assembly with the co-accused and in pursuance of common object of that unlawful assembly is alleged to have caused simple as well as grievous injuries to the complainant and is alleged to have committed the offence of rioting. As per the further allegations, the petitioner along with the co-accused tried to outrage the modesty of the daughter of the complainant and damaged the motorcycle of the sons of the complainant and the house of his daughter as well as articles kept therein. He is in custody since 26.07.2023.

Investigation has since been completed. Challan has been presented. The

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trial is likely to take time. The injury which is opined to be grievous in nature has not been attributed to him. No doubt, as many as five criminal cases have been registered against him and he has criminal antecedents. However, it is well settled proposition of law that pendency of other criminal cases against the accused cannot be made basis to refuse prayer of bail. Reference in this regard can be placed upon the observations made by Hon'ble Supreme Court in **Prabhakar Tewari's** case (Supra) and **Rakesh's** case (Supra). Keeping in view the discussion as made above, I am of the considered opinion that no useful purpose would be served by keeping the petitioner in custody any more. Therefore, the petition is allowed and the petitioner is ordered to be admitted to bail subject to his furnishing personal as well as surety bonds to the satisfaction of learned trial Court and further subject to the condition that during the pendency of the trial, he will not try to make any contract whatsoever with the complainant or either of the prosecution witnesses or would try to intimidate the same and if he does so then the learned trial Court would be at liberty to cancel the bail of the petitioner.

9. It is further clarified that observations made hereinabove shall not be construed as an expression of opinion on the merits of the case.

27.05.2024
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(MANISHA BATRA)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No