

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

215

2024:PHHC:029805
CRM-M-59806-2023
Date of decision: March 1st, 2024

Gursewak @ Sewak

.....Petitioner

Versus

State of Haryana

.....Respondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present: Mr. Nirmaljeet Singh Sidhu, Advocate
with Mr. Anil Kumar, Advocate
for the petitioner.

Mr. Ravish Kaushik, Additional Advocate General, Haryana.

Mr. Arpandeeep Narula, Advocate
for the complainant.

MANJARI NEHRU KAUL, J. (ORAL)

Petitioner is seeking the concession of bail under Section 439 of the Code of Criminal Procedure, 1973 in case FIR No.19 dated 16.01.2023 under Sections 302, 307, 427, 148, 149, 216, 472, 120-B of the IPC registered at Police Station Kalan Wali, District Sirsa.

2. Learned counsel for the petitioner, *inter alia*, contends that the petitioner has been falsely implicated in the case in hand and has now been in custody since 25.03.2023. Learned counsel has submitted that though the other accused were named in the FIR in question, which is based on eyewitness account, however, the petitioner was neither named therein nor any suspicion raised qua his involvement. He came to be nominated later on, on the basis of a disclosure statement suffered by co-accused, who stated that the petitioner was driving the vehicle which intentionally rammed into the vehicle of the complainant party. Learned counsel submits that other than this, there is no role attributed to the petitioner. Hence, in

the facts and circumstances, more so since he has no criminal antecedents, he cannot be made to languish in custody as the trial will taken considerable time to conclude.

3. *Per contra*, learned State counsel assisted by learned counsel for the complainant has vehemently opposed the prayer and submissions made by the counsel opposite. It has been asserted that no doubt, the petitioner was not named in the FIR in question, however, all the four co-accused, who had been named in the FIR, categorically deposed that it was the petitioner, who was driving the vehicle in question; intentionally the accused party collided their vehicle with that of the complainant, as a result of which the car in which the deceased along with the other persons from the complainant party were travelling, came to a halt, thereafter all the other co-accused came out of their vehicle and were also joined by some other accused, who were all armed with firearms; all the accused indiscriminately fired at the complainant party resulting in both the deceased receiving firearm injuries, to which they subsequently succumbed. Learned State counsel has further submitted that incorrect statement has been made that the petitioner has clean antecedents. The factum of the petitioner's criminal antecedents has been withheld from this Court inasmuch as the petitioner is involved in three other criminal cases. It has also been submitted that charges are yet to be framed and in case the petitioner is enlarged on bail, keeping in view his criminal antecedents, he could tamper with evidence or even try to intimidate/influence the witnesses. Learned counsel has also brought to the notice of this Court that the ocular testimony finds due corroboration with the medical evidence on record.

4. I have heard learned counsel for the parties and perused the allegations levelled in the FIR, which has been annexed as Annexure P-1. It would be relevant to reproduce the allegations levelled in the FIR, which are as under:-

“Statement of Amandeep Singh @ Kala son of Darshan Singh caste Jat Sikh resident of Village Kalan Wali Mobile No. 7027363007. Stated that I am resident of above said address and doing agriculture and we are two brothers. Today Paramjit Singh @ Jagga son of Pritam Singh resident of Mandi Kalan Wali, Deepak @ Deepu son of Sita Ram resident of Kalan Wali and Davinder @ Deepu son of Iqbal Singh resident of Mandi Kalan Wali, Sirsa have come from hearing and came on my white colour Scorpio car No. HR51BM2235 in the house of Paramjit Singh Jagga at Kalan Wali. There I had dropped Davender and Paramjit Singh @ Jagga. Then after dropping Deepak @ Deepu at his house, I was going back to my house. Then at Desu Road Kalan Wali, Near DAV School Road, a black colour Scorpio car came, which was driven by some unknown boy. Balkar Singh son of Buta Singh resident of Takhat Mal, Gaggi resident of Audhan were in the car. They stopped their car in front of my car. I saw them and turned away my car and came at the house of Deepak @ Deepu. I told everything to Deepak @ Deepu. Then I alongwith Deepu came at the house of Paramjit Singh @ Jagga. There I told everything to Paramjit Singh @ Jagga and Davender. Then we all boarded in my car and went towards my house. We have departed from my house at 3:30 PM towards the house of Paramjit Singh @ Jagga and Deepak @ Deepu was driving the car. When we reached near Safa Center at Kalan Wali to Desu Road. I do not know the name thereof. From the front side one black colour Scorpio no. HR26AF5551

came and it was being driven by some unknown driver. At the adjacent seat of driver Gagi resident Audha and in the middle seat Balkar son of Buta Singh resident of Takath Mal was sitting. They struck their car with our car. Then from the back side black colour ascent car no. HR25C8510 came and 5-6 boys alighted from it. All the boys were having pistols in their hands. They started firing at me. Out of above said boys, I am known to Jagsir Singh @ Jagga son of Bachittar Singh resident of Takath Mal, Manpreet son of Raja Singh resident of Jagmal Wali. I do not know the names of other boys. We were afraid because of the firing and there may be another car, but not sure. I have suffered 3 bullet injury at the right side of my chest in this quarrel. These bullet injuries have been given by Jagsir Singh @ Jagga son of Bachittar Singh. Paramjit Singh @ Jagga also suffered bullet injury. Deepak @ Deepu son of Sita Ram and Davender @ Deepu son of Iqbal Singh residents of Kalan Wali had also suffered many bullet injuries. There was huge jam on the road. They all the assailants left their car on the spot and ran away on other cars alongwith their weapons. My friend Manoj @ Moji resident of Mandi Kalanwali had also reached on the spot. He got all four of us admitted in Civil Hospital Kalan Wali. The doctor given treatment to me and Paramjit Singh @ Jagga and referred us to Government Hospital, Sirsa. Deepak @ Deepu and Davender @ Deepu have been declared dead. The doctor has referred me and Paramjit from Civil Hospital, Sirsa. Then we have been admitted in Ashirvad Hospital, Sirsa for treatment. You have recorded my statement, which is read over and is correct. We have old enmity with the persons, who have attached us and dispute continued since long time. Legal action be taken against them. Sd/- Amandeep Singh.”

that it was indeed a premeditated attack carried out by all the accused including the petitioner; all the accused were armed with lethal weapons including firearms. As many as two persons lost their life in the occurrence in question, while two others received firearm injuries. The contention of learned counsel for the petitioner that no injury had been attributed to the petitioner is totally bereft of any merit because it was allegedly the petitioner, who drove the other accused to the place of occurrence, rammed the vehicle into the vehicle of the complainant party. He was as much an active participant in the occurrence in question as the others.

6. In the facts and circumstances as enumerated hereinabove, this Court does not deem it fit to extend the extraordinary concession of bail to the petitioner.

7. The instant petition stands dismissed.

8. However, it is made clear that anything observed hereinabove shall not be construed to be an expression of opinion on the merits of the case.

March 1st, 2024
Puneet

(MANJARI NEHRU KAUL)
JUDGE

Whether speaking/reasoned : Yes
Whether reportable : No