



IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

225

CRM-M-45584-2024 (O&M)
Date of decision: January 15th, 2025

Prabhjit Singh alias Prabh

.....Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present: Mr. Veneet Sharma, Advocate
for the petitioner.

Mr. Amit Rana, Senior Deputy Advocate General, Punjab.

MANJARI NEHRU KAUL, J. (ORAL)

CRM-39724-2024

Prayer in this application is for placing on record the zimni
orders as Annexure P-8.

Application is allowed subject to just exceptions.

Annexure P-8 is taken on record.

CRM-44718-2024

Prayer in this application is for placing on record
Annexures P-9 to P-11.

Application is allowed subject to just exceptions.

Annexures P-9 to P-11 are taken on record.

CRM-M-45584-2024

This is a second petition filed by the petitioner seeking the
concession of regular bail in FIR No.230 dated 26.11.2022 registered
under Sections 379-B(2)/397, 307, 120-B of the Indian Penal Code, 1860

and Section 25 of the Arms Act, 1959 at Police Station Beas, District Amritsar.

2. On a pointed query posed to the learned counsel as to what was the material change in circumstances after the withdrawal of the previous petition, wherein similar relief had been sought, on 19.01.2024, it has been submitted that the trial has not proceeded and has come to a virtual standstill after the complainant, who allegedly witnessed the occurrence, had been examined. In support, learned counsel has also drawn the attention of this Court to Annexures P-10 and P-11, wherein a statement has been made by the complainant herself that her son, who allegedly sustained a firearm injury on his foot at the hands of the petitioner, is not in India and hence, would not be deposing before the trial Court in the present case. Learned counsel submits that since the complainant, who is the most material witness, has already been examined, petitioner's further incarceration would serve no useful purpose as 27 witnesses out of the 29 cited by the prosecution still remain to be examined.

3. Learned counsel has further drawn the attention of this Court to the FIR, which has been annexed as Annexure P-5 and stands reproduced hereinunder:

“Statement of Simmi W/o Ravi Kumar, R/o near Jyoti Model School Wali Gali, Rayya, Police Station Beas, District Amritsar, aged about 39 years, Mobile Phone No.9876710097. It is stated that I am resident of above-mentioned address and used to do household work. My husband Ravi Kumar has gone to abroad Siberia about one year ago and I am having two children daughter Aaina aged about 16 years and son Yuvraj Singh is aged about 18 years. Today, at about 10:50 am I along

*with my daughter Aaina and son Yuvraj Singh were present in our house and the main gate of our house was opened and suddenly 3/4 persons who were having muffled faces entered inside our house and out of them one person shown pistol to us and took me and my daughter and my son inside the one room of our house and made us to sit and started ransacking our house and from the almirah took out 15,000 euro and about 1.5 tola gold biscuit and 2 mobile I-Phone having Mobile No.734117769679 and the other having Mobile No.8699881290 and after taking the same when he was about to move out then my son identified one person and my son stated to him that **“brother you are from village Jalalabad and what are you doing”**. On this, he fired gunshot with his pistol upon the leg of my son and stated that your father is not disclosing anything about our son and also not attending our phone calls and on this after saying these words he went outside our house along with the articles above-said. I after arranging the vehicle got my son Yuvraj Singh admitted to Civil Hospital, Baba Bakala Sahib for treatment and he is under treatment at present. Thus, action may kindly be taken against these unidentified persons. Thus, statement has been got recorded which has been read over and the same is admitted to be true.”*

4. Learned counsel has argued that it is on the face of it a false and fabricated case planted upon the petitioner as firstly, he was not named in the FIR in question and secondly, he came to be nominated as an accused after four months of the alleged occurrence at the instance of the son of the complainant. Learned counsel has submitted that as per the case of the prosecution, after the present petitioner's mask fell off at the spot itself, the son of the complainant recognized him 'as being the person from Jalalabad'. Learned counsel has submitted that strangely, if the son of the complainant had indeed recognized the petitioner at the

spot itself, there is nothing which stopped the complainant from naming him soon after the occurrence in question; and furthermore, it was factually incorrect that the petitioner was a resident of Jalalabad. It has been submitted that when all these circumstances including the allegations levelled in the FIR in question were to be taken and appreciated in their totality, it was abundantly clear that the petitioner was innocent.

5. *Per contra*, learned State counsel while opposing the prayer and submissions made by counsel opposite has not disputed that the petitioner has been in custody since 05.03.2023 and till date only two prosecution witnesses out of the 29 have been examined; on further instructions, it has been submitted that the complainant has been examined and she has given a statement before the trial Court concerned that her son, who allegedly received injuries at the hands of the petitioner, would not be deposing in the present case. However, it has been asserted that the complainant, while stepping into the witness box, had supported the case of the prosecution in its entirety.

6. On a further query, learned State counsel, on instructions, has not disputed that the occurrence in question took place on 26.11.2022 and it was only in March 2023 that the son of the complainant made a statement before the police nominating the petitioner as being the person, who inflicted a firearm injury on his foot. Learned counsel has submitted that the next date fixed before the trial Court is 27.01.2025 when there is a likelihood of some more witnesses being examined.

7. I have heard learned counsel for the parties and perused the relevant material on record.

8. The complainant, who is the most material witness, already stands examined. The possibility of the trial concluding in the near future in the aforementioned facts and circumstances seems unlikely.

9. In the facts and circumstances as enumerated hereinabove, the instant petition is allowed. The petitioner be admitted to bail to the satisfaction of the trial Court/Duty Magistrate concerned. 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.

10. Needless to say, in case the petitioner misuses the concession of bail granted to him, the State would be at liberty to seek cancellation of the same.

January 15th, 2025
Puneet

(MANJARI NEHRU KAUL)
JUDGE

Whether speaking/reasoned : Yes
Whether reportable : No