

2025:PHHC:027778



IN THE HIGH COURT FOR THE STATES OF PUNJAB AND  
HARYANA AT CHANDIGARH

217

CRM-M-54655-2024 (O&M)  
Date of decision: 27.02.2025

Pardeep Singh ...Petitioner

Versus

State of Punjab ...Respondent

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present:- Mr. R. S. Rai, Senior Advocate with  
Mr. Suneet Pal Singh, Advocate  
for the petitioner.

Ms. Himani Arora, AAG, Punjab.

MANISHA BATRA, J. (Oral)

1. Prayer in this petition, filed by the petitioner under Section 483 of Bharatiya Nagarik Suraksha Sanhita, 2023, is for grant of regular bail in case bearing FIR No. 32 dated 19.02.2007, registered under Sections 302 and 34 of the IPC and Section 27 of the Arms Act at Police Station Samralla, District Ludhiana.

2. It will be proper to reproduce the order dated 13.11.2024, as passed in this case, whereby the petitioner has been granted concession of interim bail after making a detailed discussion. The same reads as under:

“...The aforesaid FIR was registered on the statement of Sumandeep Singh against the petitioner and his father Rajinder Singh with the allegation that Rajinder Singh shot dead the son of the complainant.

Learned senior counsel appearing on behalf of the petitioner submits that after conducting investigation and multiple enquiries, initially the petitioner was found

2025:PHHC:027778



innocent in the present FIR, but at the pressure of complainant, challan was filed against the petitioner and co-accused Rajinder Singh. After registration of present FIR, an application was moved by Gurmit Kaur (mother of petitioner and wife of Rajinder Singh) before the ADGP Crime, Punjab, Chandigarh regarding their innocence. Enquiry was conducted by Harbhajan Singh, S.P. (Crime), Chandigarh and both were found innocent. However, SSP, Khanna did not agree with the said report and marked the investigation to Special Investigation Cell, Khanna and said inquiry was conducted by Inspector Gurdeep Singh. During investigation, Rajinder Singh was arrested from Mohali on 18.08.2007 and his licenced gun was taken into possession. Thereafter, father of Rajinder Singh also moved an application regarding innocence of his son and grandson before the DSP, Samrala. Third enquiry was conducted by Bhulla Singh, PPS, DSP, Samrala, who in his enquiry report found that Harjot Singh died after receiving gun shot from the licensed gun of Rajinder Singh while loading the gun for firing in the air in a rash and negligent manner. The fire hit the child who was standing in front of Rajinder Singh. Accordingly, the offence from Section 302 read with Section 34 IPC and Section 25 of Arms Act was reduced to Section 304-A IPC and Section 27 of Arms Act. The petitioner was found innocent and challan under Section 304-A of IPC and Section 27 of Arms Act, 1959 was prepared by Inspector/SHO Gurdeep Singh against Rajinder Singh and presented on 29.08.2007. Thereafter, complainant party also appeared before Daljit Singh Rana, PPS, DSP, Samrala and contended that DSP Bhulla Singh had not joined the complainant party in the enquiry. Upon this, DSP, Daljit Singh Rana called the

2025:PHHC:027778



police file and conducted enquiry. He prepared his report and sent the same to SSP, Khanna, who did not agree with the report of DSP Bhulla Singh and ordered to present challan against Rajinder Singh and petitioner under Sections 302 of IPC and Section 27/54/59 of Arms Act. Thereafter, the case file was handed over to Inspector/SHO Randhir Singh. The complainant and eyewitnesses joined the investigation and supplementary statements were recorded under Section 161 of Cr.P.C. As per Inspector/SHO Randhir Singh, case under Section 302 read with Section 34 of IPC and Section 27/54/59 of Arms Act was made out against the petitioner and his father Rajinder Singh.

Learned senior counsel appearing on behalf of the petitioner further submits that the petitioner was declared proclaimed offender vide order dated 09.05.2008 passed by Sub-Divisional Judicial Magistrate, Samrala, Ludhiana (Annexure P-2). The petitioner challenged said order before this Court by way of CRM-M-45895-2024. Said petition was allowed vide order dated 16.09.2024 (Annexure P-3) and the order declaring the petitioner as proclaimed offender was set aside. Supplementary challan was prepared against the petitioner on 21.07.2008 and presented before the Illaqa Magistrate on 26.07.2008 (Annexure P-4). The case was committed to the Sessions Court, Ludhiana vide order dated 11.10.2008 (Annexure P-5). Charges were framed against the co-accused Rajinder Singh and he faced trial under Section 302 IPC. Vide judgment dated 04.07.2011 passed by learned Additional Sessions Judge, Ludhiana Rajinder Singh was found guilty under Section 304 Part II IPC and Section 27 of Arms Act and vide order of even date, he was sentenced under

2025:PHHC:027778



Section 304 Part II to undergo rigorous imprisonment for a period of 10 years with fine of Rs.5,000/- and in default of payment of fine, to further undergo rigorous imprisonment for a period of six more months and under Section 27 of Arms Act to undergo rigorous imprisonment for three years and fine of Rs.1,000/- and in default of payment of fine, to further undergo rigorous imprisonment for a period of one more month.

It is further submitted that the petitioner was resident of USA and had been living in USA for the last more than 8 years prior to the date of occurrence. He was falsely implicated in the present case for the reasons best known to the complainant. He returned to USA on 19.02.2007, as per the schedule. Even enquiry was conducted by ASI Kewal Singh at the time of serving arrest warrant. On 11.02.2008, statement of grandfather of the petitioner was recorded who stated that the petitioner had come to India from USA after 8 years and after the incident, he returned to USA from Delhi airport. Copy of report dated 25.02.2008 is annexed as Annexure P-7. The petitioner neither absconded nor intentionally sought to evade the process of law. The family of the petitioner earlier told that the FIR was only against his father as there were allegations that the shot was from his father's gun.

It is further submitted that the petitioner filed an application for grant of anticipatory bail and permission to join trial vide CRM-M45895 of 2024. Notice in the said case was issued on 30.09.2024 and status report was filed on 16.10.2024. The petitioner in order to join trial came to India on 23.10.2024. Since there was Look Out Circular issued in his name, he was arrested at the airport and since then, he is in custody. After quashing of the order whereby

2025:PHHC:027778



the petitioner was declared proclaimed offender, he could not be detained/arrested at the airport.

It is further submitted that the anticipatory bail of the petitioner is pending before this Court. The petitioner returned on the bona fide belief that he would be allowed to join the investigation and now, he is in judicial custody. His further custody would not serve any purpose. The Sessions Court and this Court have concurrent jurisdiction to entertain the bail application. Reliance is placed on ***Sundeeep Kumar Bafna Versus State of Maharashtra and another, 2014 AIR Supreme Court 1745.***

Notice of motion. Mr. Rajinder Singh Bhatta, DAG, Punjab, accepts notice on behalf of respondent-State. Copy of this petition has already been supplied in advance. Learned State counsel seeks some more time to file reply. However, he has opposed this petition on the ground that the petitioner has approached this Court directly without first approaching the Sessions Court.

I have heard the submissions of learned counsel for the parties.

The FIR, in question, was registered on 19.02.2007 under Sections 302/34 of IPC and Section 27 of Arms Act on the statement of Sumandeep Singh that on the previous day i.e. 18.02.2007, he along with his wife Nirlep Kaur and son Harjot Singh, aged 7 years, had gone to ladies sangeet function of Balwinder Singh at Village Heddon. Said sangeet was almost over till 10.00 PM. His uncle's son Pawandeep Singh and his uncle Pritpal Singh were taking meal in the verandah and many relatives were also taking meal. It was about 10:15 PM, his wife Nirlep Kaur came to him and asked that they should go to their house as in the morning, there was exam of their son. Then the

2025:PHHC:027778



complainant, his wife and their son came outside where their car was parked. There, Rajinder Singh armed with 12 bore DBBL gun was talking to his son Pardeep Singh (petitioner herein). Petitioner was empty handed. Petitioner told Rajinder Singh that Harjot Singh, son of the complainant Sumandeep Singh, was standing there. He further told that Sumandeep Singh was the person, who had forcibly married his aunt to his uncle Karam Singh after breaking the engagement of Karam Singh at some other place. The complainant should be taught a lesson. Upon this, Rajinder Singh fired from his 12 bore DBBL gun at the face of the son of the complainant, namely, Harjot Singh. The fire hit the right side of the face of Harjot Singh. The complainant raised raula and on seeing the gathering of the relatives, the accused fled away from the spot. While the complainant along with his wife and Pawandeep Singh was taking his son to PGI, Chandigarh in his car for treatment, his son died on the way near Morinda.

In this case, multiple enquiries were conducted. Challan against Rajinder Singh was presented and thereafter, supplementary challan against the petitioner was presented. Said Rajinder Singh was convicted under Section 304 Part II IPC and Section 27 of Arms Act vide judgment dated 04.07.2011 passed by learned Additional Sessions Judge, Ludhiana and he was sentenced as mentioned above.

The petitioner was in USA but was declared proclaimed offender vide order dated 09.05.2008 passed by Sub-Divisional Judicial Magistrate, Samrala, Ludhiana (Annexure P-2) and said order was set aside by the coordinate Bench of this Court vide order dated

2025:PHHC:027778



16.09.2024 (Annexure P-3). The petitioner moved this Court for grant of anticipatory bail by way of CRM-M-48224-2024 with a prayer to stay his arrest and he be allowed to come back to India to join the proceedings. State filed status report. On 16.10.2024, arguments were heard in part and fixed for 13.11.2024 i.e. today, for further arguments. In the meantime, petitioner came to India and was arrested at the airport itself and is in judicial custody. Petitioner was never armed with any weapon and no overt act was attributed to him. He has now come to India on the bona fide belief that the order whereby he was declared proclaimed offender has already been set aside and he would not be arrested. He would join proceedings to face trial.

This Court has concurrent jurisdiction with the Sessions Court and is competent to entertain the bail application directly. It is so held in case ***Sundeep Kumar Bafna (supra)***.

Para Nos.22 and 26 of the judgment in Sundeep Kumar Bafna (supra), read as under:-

“22. In the case in hand, we need not dwell further on this question since the Appellant has filed an application praying, firstly, that he be permitted to surrender to the High Court and secondly, for his plea to be considered for grant of bail by the High Court. We say this because there are no provisions in the CrPC contemplating the committal of a case to the High Court, thereby logically leaving its powers untrammelled. There are no restrictions on the High Court to entertain an application for bail provided always the accused is in custody, and this position obtains as soon as the accused

2025:PHHC:027778



actually surrenders himself to the Court. Reliance on R v. Evans, (2012) 1 WLR 1192, by learned Senior Counsel for the respondents before us is misplaced, since on its careful reading, the facts are totally distinguishable inasmuch as the accused in that case had so engineered events as not to be available in persona in the Court at the time of the consideration of his application for surrender. The Court of Appeal observed that they "do not agree that reporting to the usher amounts to surrender". The Court in fact supported the view that surrender may also be accomplished by the commencement of any hearing before the Judge, however brief, where the accused person is formally identified and plainly would overtly have subjected himself to the control of the Court. Incontrovertibly, at the material time the Appellant was corporeally present in the Bombay High Court making Evans applicable to the case of the Appellant rather than the case of the respondent. A further singularity of the present case is that the offence has already been committed to Sessions, albeit, the accused/Appellant could not have been brought before the Magistrate. It is beyond cavil "that a Court takes cognizance of an offence and not an offender" as observed in Dilawar Singh v. Parvinder Singh, 2005(4) RCR (Criminal) 855: (2005) 12 SCC 709, in which Raghubans Dubey v. State of Bihar, AIR 1967 Supreme Court 1167, was applied. Therefore, the High Court was not



2025:PHHC:027778



justified in directing the Appellant to appear before the Magistrate.

23. ....

24. ....

25. ....

26. In conclusion, therefore, we are of the opinion that the learned Single Judge erred in law in holding that he was devoid of jurisdiction so far as the application presented to him by the Appellant before us was concerned. Conceptually, he could have declined to accept the prayer to surrender to the Courts' custody, although, we are presently not aware of any reason for this option to be exercised. Once the prayer for surrender is accepted, the Appellant before us would come into the custody of the Court within the contemplation of Section 439 Cr.P.C. The Sessions Court as well as the High Court, both of which exercised concurrent powers under Section 439, would then have to venture to the merits of the matter so as to decide whether the applicant/Appellant had shown sufficient reason or grounds for being enlarged on bail.”

In the case in hand, petitioner is in judicial custody and keeping in view that no overt act has been attributed to him and there was one single shot from the licensed gun of co-accused and said shot hit Harjot Singh, son of the complainant, and co-accused has already been convicted vide judgment dated 04.07.2011 under Section 304 Part II IPC and Section 27 of Arms Act. Petitioner has come to India first time after 2007, after quashing of order whereby he was declared proclaimed offender and his anticipatory

2025:PHHC:027778



bail was pending but no order could be passed in the said application and reply by State is to be filed, in these circumstances, keeping petitioner behind bars would defeat the ends of justice. Thus, the petitioner is admitted to interim bail till the next date of hearing, subject to his furnishing bail bonds with two sureties of the like amount to the satisfaction of concerned learned Chief Judicial Magistrate/Duty Magistrate, with the further condition that he shall handover his passport before the concerned court within 24 hours of his release from the jail. He shall also get his mobile number registered in the trial Court for receiving messages on CIS system and shall not change his mobile number till further orders. He shall also furnish his residential address to the trial Court as well as to the concerned police station and shall not change his residence without intimation to the concerned court. The court concerned may impose any other condition as it deems fit. In case of default, the trial Court is free to cancel interim bail granted to the petitioner.

Adjourned to 05.12.2024.

Reply be filed by the State in the meanwhile.”

3. Reply has been filed by the respondent-State admitting the factum that though the petitioner along with co-accused Rajinder Singh had been named in the FIR and had been booked for commission of offence punishable under Section 302 of IPC read with Section 34 of IPC but subsequently in an inquiry conducted by the police, both of them were found innocent. Then a second inquiry was conducted and the father of the petitioner, who is co-accused Rajinder Singh, was recommended to be booked under Section 304-A of IPC and Section 27 of the Arms Act and challan had been presented as against the co-accused. It is submitted that subsequently, on

2025:PHHC:027778



an application moved by the complainant party, further inquiry was conducted and challan under Section 302 of IPC and Section 27 of the Arms Act was ordered to be presented against the present petitioner and co-accused. Then supplementary challan was presented against the petitioner as well as co-accused. It is also submitted in the reply that co-accused has since been held guilty and convicted under Section 304 Part II of IPLC and has been sentenced to undergo rigorous imprisonment for a period of 10 years with fine of Rs. 5,000/- and also under Section 27 of the Arms Act and has been sentenced to undergo rigorous imprisonment for a period of 03 years and to pay fine of Rs. 1,000/-.

4. The fact that the petitioner had filed a petition seeking quashing of the order declaring him as a proclaimed offender and the said petition had been allowed, vide order dated 16.09.2024 has also been admitted by the respondent-State. It is, however, submitted in the reply and learned State counsel has argued that the petitioner had a substantial role to play in commission of offence of murder of victim Harjot Singh as it was on his instigation that the co-accused had fired shot with his gun upon the victim, thereby causing his death. It is argued that keeping in view the gravity of the allegations as levelled against the petitioner, who instigated the homicidal death of the victim, he does not deserve to be extended benefit of regular bail. Hence, it is urged that the petition is liable to be dismissed.

5. Learned senior counsel for the petitioner, on the other hand, has argued that since the petitioner had not been attributed any specific overt act which led to the death of the victim and since as per the allegations, it was the

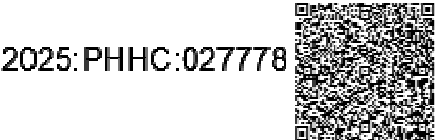
2025:PHHC:027778



co-accused who had fired shot with his gun on the victim and even he has been held guilty and convicted, as mentioned above, therefore, no purpose would be served by detaining him into custody as neither his custodial interrogation is required at this stage nor any recovery is to be effected from him. Supplementary challan already stands presented. The order declaring him as a proclaimed offender also stands quashed. He is ready to join the proceedings before the learned trial Court and to abide by the terms and conditions to be imposed upon him. Accordingly, it is urged that he deserves to be released on regular bail.

6. I have heard learned counsel for the parties at considerable length and have also gone through the record carefully.

7. It has already been discussed in the previous order dated 13.11.2024 that the petitioner was declared a proclaimed offender and the order declaring him as such had been subsequently set aside by this Court, vide order dated 16.09.2024. The petitioner had been arrested on 23.10.2024, when he had come to India from abroad to join the trial and at the stage when his application for grant of anticipatory bail was pending. Thereafter, he has filed this petition. As per the allegations in the FIR, it was the co-accused, who had fired shot with his gun upon the victim, which had resulted into his death. The allegations against the petitioner are that it was him, who had instigated his father/co-accused to teach a lesson to the victim. The petitioner has remained in custody since 23.10.2024 till 13.11.2024 and thereafter, he has been granted concession of interim bail. It is not the plea taken by the respondent-State that his custodial interrogation is required for the purpose of



effecting any recovery. As already mentioned, no specific overt act had been attributed to him. Co-accused already stands convicted for commission of offence under Section 304 Part II of IPC and Section 27 of the Arms Act. In such circumstances, I am of the considered opinion that incarceration of the petitioner would be of no use. Accordingly, the present petition is allowed. The interim bail granted to the petitioner, vide order dated 13.11.2024, is confirmed and converted into regular one.

8. It is made clear that the observations made hereinabove are only for the purpose of deciding the present petition and the same shall not be construed as an expression of opinion on the merits of the case.

27.02.2025

*Waseem Ansari*

(MANISHA BATRA)

JUDGE

|                                  |               |
|----------------------------------|---------------|
| <i>Whether speaking/reasoned</i> | <i>Yes/No</i> |
| <i>Whether reportable</i>        | <i>Yes/No</i> |