

IN THE COURT OF MS. ANJANA, ADDITIONAL SESSION JUDGE,
MOGA.

BA No.346 Dated 18.09.2020
CIS No.BA/1788/2020
CNR No.PBMO01003769-2020
Decided on :- 16.10.2020

State of Punjab

Versus

Amandeep Singh alias Gaddar son of Bakhshish Singh resident of House
No.210-A, Chugha Road, Kot Ise Khan Road, Dharamkot, Tehsil
Dharamkot, District Moga.

.....Applicant/Accused.

FIR No.45 dated 16.07.2018,
U/ss 307, 341, 336, 148, 149 IPC and later on added
Section 201 IPC and Section 25, 27, 54, 59 of Arms Act,
Police Station Fatehgarh Panjtoor.

Bail Application Under Section 439 Cr.P.C

Present: Sh. Ramesh Grover Advocate, for applicant/accused
Mrs. Gunwantjit Manesh Addl.PP for the State

ORDER

1. Virtual court room set up through Vidyo App. Learned Addl.PP for State is online from her office. This order of mine shall dispose of bail application under section 439 Cr.P.C for grant of anticipatory bail, in case FIR No.45 dated 16.07.2018, U/ss 307, 341, 336, 148, 149 IPC and later on added Section 201 IPC and Section 25, 27, 54, 59 of Arms Act, Police Station Fatehgarh Panjtoor.
2. In pursuance of the notice of the bail application having been issued learned Addl. PP for the State, Mrs. Gunwanjit Manesh, has put in appearance through video conferencing. Lower Court received and perused.
3. Learned counsel for accused/applicant has contended that a false case has been registered against accused/applicant and his family

members after concocting false story and fabricating false injuries on his person by the complainant just to put pressure upon the applicant so that applicant effect compromise with the complainant in FIR No.109 Dated 04.06.2017, which was registered against the complainant party on the statement of applicant for causing injuries to applicant. In fact, the applicant is running a hair cutting salon in the Dharamkot. In the month of January 2017, the applicant was beaten up by the complainant alongwith his companion. The incident took place on 25.01.2017 and in this regard, applicant submitted complaints to the police but later on applicant compromised the matter with the culprits with the intervention of respectables on 06.03.2017. In the month of March 2017, the Government in the State of Punjab changed as the above said culprits or their relatives is the members/supporters of the Congress party. On 22.05.2017. when applicant was working in his shop, then complainant and his companion trespassed into the shop of the applicant and attacked the applicant and inflicted grievous injuries on the person of applicant and applicant was admitted at Civil Hospital, Kot Ise Khan. On 24.05.2017, ASI Amarjit Singh alongwith HC Amrik Singh abducted the applicant from the Civil Hospital, Kot Ise Khan with active connivance of complainant party, from where the applicant was taken to police station Dharamkot and was lodged in the lock up. At about 3.00 AM, SHO Sahib of PS Dharamkot came and took out the applicant from the lock up at that time, complainant party was present in the police station. SHO started abusing the applicant that applicant has dared to file/lodge complaints against the members of ruling party who themselves are Government and started beating the applicant mercilessly and tortured the applicant badly, resultantly legs of the applicant have become disable permanently. When the above said persons realized that the applicant has suffered serious injuries, they left off the applicant in the morning. On the next day, the applicant approached Deputy Commissioner, Moga on 25.05.2017 and SSP Moga, who was not in his office and on 26.05.2017 the applicant met with SSP, Moga but no legal action was taken. On the same day, the applicant went to Civil Hospital, Moga for his treatment but when Doctors present there came to know that it

is case of police atrocities during police custody, they refused to admit the applicant or to treat the applicant. Thereafter, applicant admitted at Charitable Hospital, Ludhiana and after that for further treatment, the applicant approached GGS College and Hospital, Faridkot, where it is diagnosed that the veins in the legs of the applicant has been damaged permanently and it can not be treated and applicant can not be normal again but Doctor advised a treatment which is to costs about 7 Lacs which the applicant can recover to some extent. When SHO came to know that applicant is going to take legal action against him, he started calling the applicant and apologizing from the applicant while admitting his guilt. To save his skin, the SHO has registered one FIR No.109 dated 04.06.2017 at PS Dharamkot against the complainant party for trespassing the shop of applicant and for inflicting injuries upon the applicant. Applicant submitted a detailed representation dated 01.07.2017 to Additional Chief Secretary Department of Home Affair, Punjab urging him to intervene in the matter and to take due legal action but unfortunately said official has not taken any legal action. Ultimately, applicant filed a writ petition in the Hon'ble High Court against the highhandedness of the complainant party. In order to put pressure upon the applicant, so that the applicant withdraw his above said writ petition from Hon'ble High Court and also affect compromise with the complainant party, the complainant party registered this false case against the applicant after concocting false story and fabricating false injuries on his person. In fact, neither any such incident ever taken place nor any applicant caused any alleged injuries. Now, nothing is to be recovered from the accused/applicant. The accused/applicant is in judicial custody since 14.08.2020. The challan has already been presented in the court against co-accused and conclusion of trial will take a long time and no useful purpose would be served by detaining the applicant/accused further behind the bars. The accused/applicant will abide by all the terms and conditions as imposed by this court. Lastly, prayer has been made for acceptance of the bail application.

4. On the other hand, learned Addl.P.P. for the State vehemently opposed the contentions raised by the learned counsel for accused/ applicant

and argued that serious offences has been committed by the accused/applicant. Thus due to gravity and seriousness of offence, present accused/applicant does not deserve the concession of regular bail. Lastly, prayer has been made for dismissal of bail application.

5. After giving my careful and thoughtful consideration to the rival contentions and on careful perusal of averments of application, contents of FIR coupled with the duly assistance rendered, the Court is of the considered view that present bail application merits acceptance. From the perusal of record, it reveals that after registration of FIR, the accused/applicant could not be arrested in the present case and thereafter, P.O. proceedings were initiated against the accused/applicant but the accused did not come present to the court and ultimately, he was declared proclaimed offender by learned lower court vide order dated 27.11.2019. Thereafter, the present accused/applicant himself surrendered before the learned lower court on 14.08.2020 and since and since then, he is in judicial custody. The supplementary challan has already been presented against the accused before learned lower court and conclusion of trial will take considerable time. Thus, no useful purpose will be served to detain the accused/applicant behind the bars. As per the guidelines laid down by Hon'ble Apex Court in case titled as **“Sanjay Chandra Versus CBI 2012 (1) SCC 40”**, it has been made abundantly clear that *the object of bail is to secure the presence of the accused person at the trial. The object of bail is neither punitive nor preventive. The jurisdiction to grant bail has to be exercised on the basis of well settled principles having regard to the circumstances of the case, the nature of accusation, the evidence to be led in support thereof, the severity of punishment, the character and behaviour of the accused, reasonable apprehension of tampering with the evidence, reasonable possibility of securing the presence of accused during the trial, the larger interest of public and state.* Thus, when the above said yardstick are applied to the case in hand, the court finds merit in the submissions put forth by the learned counsel for the applicant. The applicant is hereby admitted to bail on his furnishing bail bond in the sum of ₹.1,00,000/- (One Lakh only) with one surety in the like amount to the satisfaction of learned

Illaqa Magistrate/Duty Magistrate subject to the conditions that accused/applicant will appear in Court on each and every date of hearing and will not leave the country without prior permission of the Court. Lower Court file be returned back forthwith. File be consigned to the Record Room.

Pronounced.
16.10.2020.
(Sunny Stenographer II)

(Anjana),
Addl Sessions Judge,
Moga. ***(UID No.PB0448)***

Present: Sh. Ramesh Grover Advocate, for applicant/accused
Mrs. Gunwantjit Manesh Addl.PP for the State

PO proceedings papers received and attached. Arguments heard through video conference. Vide my separate order of even date, the present bail application stands allowed, for the reasons as indicated therein. Lower Court file be returned back forthwith. File be consigned to the Record Room.

Pronounced.
16.10.2020.
(Sunny Stenographer II)

(Anjana),
Addl Sessions Judge,
Moga. (**UID No.PB0448**)

Perusal of file reveals that present case was registered on the statement of complainant Harpreet Singh, wherein he has stated that when he was present in his house and his father had gone to irrigate the fields for whom he was carrying the lunch and was going to the fields on his Motor cycle No.PB-08-CR-2177 when i-20 white colour car started following him. He further stated that when he reached near the fields of Ex.Sarpanch Nirmal Singh, the car driver made him force stop by bringing his car in front of the Motor cycle. When the car came to a halt, Amandeep Singh alias Gaadar son of Bakshish Singh armed with a Pistol, his brother Rajpal Singh armed with a Kirpan and their father Bakshish Singh also armed with a Pistol alighted from the car at once. Accused-applicant Bakshish Singh then raised a lalkara exhorting his accomplices to put the complainant into the car and to teach him a lesson for pursuing the case got registered by them. Two unidentified persons were also there in the car, one being the driver and the other occupying the rear seat of the car who had muffled their faces. All these persons tried to abduct the complainant by forcibly putting him into the car which attempt was resisted by the complainant upon which accused Amandeep Singh fired a shot towards the complainant which hit through and through on the outer side of right thigh of the complainant. Thereafter, Amandeep Singh and Bakshish Singh fired shots in the air on which the complainant raised a raula which attracted the attention of Baldev Singh and father of the complainant Bohar Singh who were working in their fields. On this, all the accused fled away from the place of occurrence.