

Gurlal Singh @ Lali v. State of Punjab , 2023 PLRonline 0110

- **Case Overview:** The petitioner seeks release as an undertrial after being denied bail by the trial Court in a case registered under Sections 153, 153-A, 212, 216, 120-B of the IPC, Section 21 of the NDPS Act, and Section 25 of the Arms Act. This case was registered at the State Special Operations Cell, Mohali, District SAS Nagar.
- **Prosecution Version:** On 23.08.2022, Police received information that petitioner, and others were illegally supplying arms, ammunitions, and funding separatists with an intent to create disturbance in the name of religion, as directed by the Pakistani Agency ISI.
- **Arrest and Custody:** An FIR was registered and the petitioner was arrested on 23.08.2022. He has been in custody since that date.
- **Petitioner's Argument:** The petitioner claims to have been falsely implicated. He was intercepted while trying to go abroad and ₹2200 was found in his possession. The money was allegedly bought for Rs.3.90 lakh, withdrawn from his father's bank account. The petitioner argues he has no connection with the alleged illegal activities. No evidence confirms his complicity with the accused persons.
- **Petitioner's Counsel Argument:** There is nothing to be recovered from the petitioner, and no purpose is served by keeping him in custody. Co-accused Sunil Kumar @ Kala and Tausif Chisti @ Syed, attributed similar roles as the petitioner, have already been granted bail.
- **State Counsel Argument:** The state counsel opposes the petition, arguing that the petitioner has committed a serious offense and is suspected to be involved in two more cases, though on bail in those. There is a risk of tampering with evidence or influencing witnesses if released on bail.
- **Court Observation:** The Court has heard both sides and reviewed the case file. The investigation against the petitioner is complete and he is not required for custodial interrogation. Allegations against the petitioner are a matter of trial at this stage. The trial is proceeding slowly, and no witnesses have been examined as charges are not framed yet. The petitioner has been in preventive custody for over 11 months.
- **Petitioner Profile:** The petitioner is a 23-year-old student who secured admission to study in Canada but was apprehended at the airport when leaving India. He completed a food course at the Food Craft Institute and worked for the Taj group at the Taj Hotel Resorts and Palaces.
- **Bail of Co-Accused:** Co-accused of the petitioner have been granted bail.
- **Court Decision:** Considering the overall scenario and without commenting on the merits of the case, the Court grants the petition and orders the release of the petitioner on bail, provided he is not required in any other case. He must furnish bail and surety bonds to the satisfaction of the trial Court or Duty Judge. The petitioner must also surrender his passport if not already surrendered.

Gurlal Singh @ Lali v. State of Punjab , 2023 PLRonline 0110

Punjab and Haryana High Court

Before: Arun Monga, J.

GURLAL SINGH @ LALI - Petitioner

Versus

STATE OF PUNJAB - Respondent

CRM-M-9325 of 2023 (O&M)

07.08.2023

Criminal Procedure Code , 1973 (2 of 1974), Section 439 - Indian Penal Code, 1860 (45 of 1860), Sections 153, 153-A, 212, 216, 120-B - Narcotic Drugs and Psychotropic Substances Act, 1985 (61 of 1985), Section 21 - Arms Act, 1959 (54 of 1959), Section 25

Allegation that Petitioner and unknown persons involved in illegal arms supply, funding separatists for religious disturbances, influenced by Pakistani Agency ISI for creating unrest in Punjab - In Preventive Custody for over 11 months - A 23-year-old student, aspired to study in Canada who has completed a course at Food Craft Institute course, worked at Taj Hotel Resorts and Palaces - No probability of tampering with Evidence as the same is already seized - Co-accused already granted bail - Petitioner released on bail.

Mr. A.D.S. Jattana, Advocate for petitioner. Ms. Guramrit Kaur, DAG Punjab.

ARUN MONGA, J. (ORAL) -

After being declined bail by the trial Court, petitioner, before this Court seeks his release as undertrial in a case bearing FIR No.06 dated 23.08.2022, registered under Sections 153, 153-A, 212, 216, 120-B of the Indian Penal Code, 1860 (for short 'IPC'), Section 21 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short 'NDPS Act') and Section 25 of the Arms Act, 1959 (for short 'Arms Act'), at Police Station, State Special Operations Cell, Mohali, District SAS Nagar.

2. Per prosecution version, on 23.08.2022, SI/SHO Manpreet Singh received secret information that one Lakhvir Singh alias Landa resident of Harike, Patti, District Tarn Taran, ordinarily residing in Canada, in connivance with Satnam Singh alias Satta resident of Naushera Pannua, District Tarn Tarn, Gurlal Singh alias Lali (petitioner) resident of village Sarhali Kalan, District Tarn Taran alongwith other unknown persons was illegally supplying arms and ammunitions and funding separatists. All this was being done with an intent to create disturbance in the name of religion, at the instance of Pakistani Agency ISI and, to target the leaders of religious organizations and political leaders to disturb peace and tranquility in Punjab. All the accused are allegedly followers of Khalistan ideology. An FIR

was registered. Petitioner was arrested and is in custody since 23.08.2022.

3. Learned counsel for petitioner submits that petitioner has been falsely implicated. Petitioner was intercepted by SI along with his team when he was in the process to go abroad and €2200 were found in possession of petitioner, which he had purchased for an amount of Rs.3.90 lakh after withdrawing the same from bank account of his father. Said money was kept by ASI Harinderjit Singh and a false case was registered against the petitioner. He submits that petitioner has nothing to do with alleged illegal activities. Learned counsel further submits that there is not even an iota of evidence against the petitioner confirming his complicity with accused persons.

3.1. Learned counsel further contends that nothing is to be recovered from the petitioner and no useful purpose would be served by keeping him behind bars. He also contends that co-accused of the petitioner, namely Sunil Kumar @ Kala and Tausif Chisti @ Syed who have been attributed similar role as petitioner herein have been accorded concession of bail by the co-ordinate Bench of this Court vide order dated 11.05.2023.

4. On the other hand, learned State counsel, on instructions from SI Vikramjeet Singh, opposes the petition and submits that petitioner has committed a serious offence. She submits that per custody certificate, petitioner is suspected to be involved in two more cases, though he is on bail in those. His production warrants have also been issued in two other cases. If released on bail, he might tamper with evidence or influence/ intimate the witnesses and also flee from the trial.

5. I have heard rival contentions of learned counsels for the parties and have gone through the case file.

6. On a Court query, learned State counsel submits that challan was presented, but charges are yet to be framed. Investigation is complete *qua* petitioner, he is thus not required for custodial interrogation. Bail allows an accused to maintain his freedom until his guilt or innocence is determined. Allegations against petitioner are a matter of trial at this stage. Conclusion of trial is still likely to take long time as it is proceeding at a snail pace. It is stated that there are total 22 witnesses, out of them none has been examined since charges are not framed so far. Whereas, petitioner has already been languishing in jail for the past more than 11 months in preventive custody, being behind bars since 23.08.2022.

7. Petitioner is being kept in preventive custody merely on an unfounded suspicion that if he is let out, he may either tamper with evidence and/or influence witnesses. There is no probability of tampering with evidence as the same has already been seized by the investigating agency.

8. It is stated that petitioner is a 23-year old young student, was aspirant to study further in Canada, where he had though secured admission, but was apprehended at the airport when he was leaving from India. He has already done his food course from the Food Craft Institute at Hoshiarpur and also worked for the Taj group at the Taj Hotel Resorts and Palaces at Bangalore. His entire life and career is thus at stake while he continues to be in preventive custody.

- 9.** Co-accused of the petitioner have been granted concession of bail and yet, petitioner, whose case is on much higher pedestal, as is the argument of his counsel, is in jail.
- 10.** Considering the overall scenario and without commenting on the merits of the case, the instant petition is allowed. I am of the view that no useful purpose would be served to keep the petitioner in further preventive custody.
- 11.** Accordingly, petitioner is ordered to be released on bail, in case not required in any other case, on his furnishing bail bonds and surety bonds to the satisfaction of learned trial Court, where his case is being tried and in case he/she is not available, before learned Duty Judge, as the case may be.
- 12.** Apart of other conditions imposed by learned releasing Court, petitioner shall surrender his passport with learned trial Court, if not already surrendered.
- 13.** Any observations made and/or submissions noted hereinabove shall not have any effect on merits of the case as the same are for limited purpose of bail hearing alone and learned trial Court shall proceed without being influenced with this order.
- 14.** Pending application(s), if any, shall also stand disposed of.