

Surinder Singh @ Soni v. State of Punjab, 2023 PLRonline 0113 (P&H)

PUNJAB AND HARYANA HIGH COURT

Before: Pankaj Jain, J.

Surinder Singh @ Soni - Petitioner

Versus

State of Punjab - Respondent

CRM-M-40485 of 2023

23.08.2023

Criminal Procedure Code, 1973 (2 of 1974), Section 439 — Indian Penal Code, 1860 (45 of 1860), Section 399, 402 — Arms Act, 1959 (54 of 1959), Section 25, 54, 59-A - Making preparation and assembly for committing dacoity - Accused of planning and gathering for a robbery, granted bail due to the similarity in circumstances with co-accused - Petitioner was found with a weapon and Rs.30,000/- - No other significant evidence against him except for involvement in two other cases - Taking into account previous detention time and equal treatment under the law with co-accused parties, bail granted.

Cases referred:

1. Prabhakar Tiwari vs. State of U.P., (2020) 1 RCR (Cri.) 831.

Present:

Ms. Suman Kumari, Advocate for the petitioner. Mr. Amit Shukla, AAG, Punjab.

PANKAJ JAIN, J. (ORAL) -

Present petition has been filed under Section 439 Cr.P.C. for grant of regular bail to the petitioner in case bearing FIR No.14 dated 21.02.2023, registered for the offences punishable under Sections 399 and 402 of IPC, 1860 and Sections 25, 54 and 59-A of Arms Act, 1959, registered at Police Station Bakhshiwala, District Patiala.

2. Reliance has been placed upon order dated 06.07.2023 passed in CRM-M-30606-2023, whereby accused stands admitted to bail observing as under:-

“1 This petition has been filed under Section 439 Cr.P.C. for grant of regular bail to the petitioner in case F.I.R. No.14 dated 21.02.2023 registered under Sections 399/402 IPC and Sections 25/54/59 of Arms Act, at Police Station Bakhshiwala, Patiala.

2 As per the allegations levelled in the FIR, it has been alleged as under :-

A note from SI Jastin Sadiq 1357/PTL/C.I.A. Patiala against Parvinder Singh alias Ravi son of Gursewak Singh, resident of Village Jati Majra, Police Station Dhuri, District Sangrur, Surinder Singh alias Soni son of Ranjit Singh, resident of Village Jati Majra, Police Station Dhuri, District Sangrur, Mandeep Singh alias Vicky son of Ranjit Singh, resident of Village Daulatpur, Police Station, Dhuri, District Sangrur, Manpreet Singh alias Lavi son of Major Singh, resident of Village Bararwal, Police Station Dhuri, District Sangrur and Amandeep Singh alias Golu son of Gurjit Singh, resident of Village Ruldu Singh Wala, District Sangrur, has been received at the police station through Constable Jashanjeet Number 2333/PTL. The details of same are as this, "To, The SHO Police Station Bakshiwala. Jai Hind. Today, I A.S.I. along with A.S.I. Sahib Hazara Number 1820/PTL, A.S.I. Gurpreet Singh Number 703/PTL, A.S.I. Sandeep Singh Number 2872/PTL, A.S.I. Roop Singh Number 2396/PTL, A.S.I. Pargat Kumar Number 1254/PTL, Head Constable Ranjeet Singh Number 2282/PTL, Constable Surinder Singh Number 444/PTL, Constable Rupinder Singh Number 1560/PTL and constable Jashanjeet Singh Number 2333/PTL, on official vehicle bearing registration number PB-11-BY-6918 of Balero company, being driven by A.S.I. Patwinder Singh Number 1691/PTL and on private car, were present near Bus Stand Village Rakhra, Nabha Patiala Road in connection with checking of bad elements and suspicious persons. That on the spot special informer passed information to me in person that Parvinder Singh alias Ravi son of Gursewak Singh, resident of Village Jati Majra, Police Station Dhuri, District Sangrur, Surinder Singh alias Soni son of Ranjit Singh, resident of Village Jati Majra, Police Station Dhuri, District Sangrur, Mandeep Singh alias Vicky son of Ranjit Singh, resident of Village Daulatpur, Police Station Dhuri, District Sangrur, Manpreet Singh alias Lavi son of Major Singh, resident of Village Bararwaal, Police Station Dhurul, District Sangrur and Amandeep Singh alias Golu son of Gurjeet Singh, resident of Village Ruldu Singh Wala, District Sangrur have been hatching conspiracy at the shops located at Anaj Mandi, Village Dadhera to commit dacoity while being armed with sharp edged weapons, deadly weapons and illegal firearms with an intention to commit Dacoity. I have seen them myself and have heard them personally. That earlier also all of these above used to snatch cash etc. while being armed with sharp edged and deadly weapons. They have committed crimes in the area of Sangrur and Nabha. Some out of them have also been imprisoned in jail in different cases and today also they have been looking to commit some big crime. Earlier also there are F.I.R.s registered against them for robbery and theft. If raid is conducted upon them right now, all of them may be apprehended along with sharp edged and deadly weapons. Information is solid and reliable. Committing this act by the above persons makes out offences under section 399, 402 of I.P.C. and 25-54-59 of Arms Act. Note is sent to the police station Bakshiwala through constable Jashanjeet Number 2333/PTL for registration of F.I.R. under the above offences against the above accused persons. File number be informed after registration of the F.I.R. Information be passed to the Senior Officials and Control room. Special reports be generated. I A.S.I. am leaving for the place of occurrence along with colleagues to arrest the above accused persons. Within area of Bus Stand, Village Rakhra, Nabha Patiala Road. Time: 05:40 P.M. Latitude 30.370438, Longitude 76.2556005. Sd/- SI Justin Sadik 1357/PTL/C.I.A., Patiala, Date: 21.02.2023. On the basis of present note, above F.I.R., under the above offences is registered against Parvinder Singh alias Ravi, Surinder Singh alias Soni, Mandeep Singh alias Vicky, Manpreet Singh alias Lavi,

Amandeep Singh alias Golu and record is completed. Copies of F.I.R. are sent to the Area Magistrate and Senior Officials. Separate information is being passed to the In-charge of the control room. Case file along with original statement/note is sent to Justin Sadik 1357/PTL/C.I.A., Patiala through messenger constable Jashanjeet Number 2333/PTL on the spot. Completion of D.D.R. Number 31. Date: 21.02.2023.”

3 Learned counsel for the petitioner would submit that even if the allegations levelled in the FIR are taken to be on their face value, the same would at the most constitute preparation. The only recovery stated to be effected from the petitioner is in form of iron rod. Challan already stands presented. Thus investigation having been concluded there cannot be any apprehension that the petitioner would influence the investigation or shall tamper with the evidence.

4 Per contra learned State counsel submits that there is another case registered against the petitioner under Section 379-B IPC.

5 Faced with the situation learned counsel for the petitioner submits that after the petitioner was arrested in the present case, he was nominated in the said case that too on the basis of disclosure alleged to have been made by some accused.

6 I have heard learned counsel for the parties and have gone through the records of the case.

7 In view of the aforesaid facts and circumstances, without commenting on the merits of the case and considering the incarceration suffered by the petitioner, the present petition is allowed. The petitioner is ordered to be released on bail on his furnishing bail/surety bonds to the satisfaction of the Ld. Trial Court/Duty Magistrate, concerned.

8 Needless to say that anything observed herein shall not be construed to be an opinion on the merits of the case.”

3. In the present case, recovery attributed to the petitioner is gandasi alongwith Rs.30,000/-. Apart from the aforesaid fact, there is no distinguish feature and the allegations levelled against the petitioner are the same in nature as per levelled against co-accused Amandeep Singh @ Golu who admittedly stand admitted to bail.

4. So far as two more cases registered against the petitioner are concerned, counsel for the petitioner submits that in FIR No.24 dated 17.02.2023, the petitioner already stands admitted to bail and submits in view of law laid down in **‘Prabhakar Tiwari vs. State of U.P.’ reported as (2020) 1 RCR (Cri.) 831**, his criminal antecedents should not be an impediment in granting him bail treating at par with the co-accused.

5. Learned State counsel does not dispute the aforesaid factual assertions based on record.

6. Keeping in view the parity and the incarceration already suffered by the petitioner, the present petition is allowed. Petitioner is ordered to be released on regular bail on his furnishing bail/surety bonds to the satisfaction of the Ld. Trial Court/Duty Magistrate,

concerned.

7. Needless to say nothing recorded herein shall be construed to be an expression of an opinion on the merits of the case.