

# Harwinder Singh Alias Alias Bhinda vs State Of Punjab on 5 January, 2024

Neutral Citation No:=2024:PHHC:

CRM-M-14483-2023

Neutral Citation No. 2024:PHHC:000502

IN THE HIGH COURT OF PUNJAB AND HARYANA  
AT CHANDIGARH

Reserved on: December 21, 2023  
Date of Decision: January 05, 2024

CRM-M-14483-2023

Harwinder Singh @ Bhinda

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE DEEPAK GUPTA

Present: - Mr. Mayur Karkra, Advocate for the petitioner.

Mr. Sarabjit Singh Cheema, DAG, Punjab.

DEEPAK GUPTA, J.

This is the 4th petition filed under Section 439 Cr.P.C. moved by the petitioner seeking his release on regular bail in a case arising out of FIR No.126 dated 15.12.2017, registered at Police Station Kotfatta, District Bathinda, under Sections 307, 353, 473, 412, 186, 148 and 149 of IPC, besides Section 25 of the Arms Act, 1959.

2.1 Status report filed by respondent State through Ms. Heena Gupta, Deputy Superintendent of Police (Rural), District Bathinda, would reveal that FIR has been lodged on the statement of ASI Harjiwan Singh of CIA Staff, Bathinda, as per which on 15.12.2017, a police party was on patrolling duty, going from Bhucho Mandi to village Tungwali via Kahan Singh Wala. As they crossed village Kahan Singh Wala, in-charge CIA Page No.1 out of 7 pages 1 of 7 Neutral Citation No:=2024:PHHC:000502 CRM-M-14483-2023 Neutral Citation No. 2024:PHHC:000502 Staff Inspector Rajinder Kumar informed him (ASI Harjiwan Singh) that on Bathinda-Barnala Road near Bhucho, some young men on a Scorpio car had snatched a Fortuner car bearing registration No.

PB-13-AR-2222 on gunpoint. ASI Harjiwan Singh along with police party moved ahead and reached the intersection towards village Tungwali side, when a white-coloured Scorpio car followed by a white-coloured Fortuner car bearing registration No. PB-13-AR-2222 came from Bhucho side at high speed and turned towards village Tungwali side. The police party led by ASI Harjiwan Singh chased the vehicles and gave information to in-charge CIA Staff-1, Bathinda. On reaching village Bhagu, the two vehicles dodged the police party and escaped.

2.2 Thereafter, ASI Harjiwan Singh along with the police party were going towards village Bhagu to Kartar Singh Wala via village Phus Mandi in search of the abovesaid vehicles. When they reached ahead of railway crossing of village Gulabgarh, they saw the abovesaid vehicles coming from the front side. Police party parked their vehicles in front and signalled the above vehicles to stop. Three young men occupying the Fortuner car lowered the window panes and started firing at the police party with intention to kill them, despite repeated warnings given by the police not to do so. Due to high speed, the Fortuner car got stuck in the stack of debris lying in the vacant plot at the side of the road, but the young men occupying the car continued firing at the police, despite repeated warnings. The riders of the Scorpio car, which was behind the Fortuner car also fired at the police party. In self defence, police party Page No.2 out of 7 pages 2 of 7 Neutral Citation No:=2024:PHHC:000502 CRM-M-14483-2023 Neutral Citation No. 2024:PHHC:000502 fired back at the Scorpio and Fortuner car riders and then the occupants of the Scorpio car left the vehicle, while continuing firing upon the police party and ran away towards a nearby school through the boundary roads of the village Gulabgarh.

2.3 The young men occupying the Fortuner car were injured by the firing in retaliation. They were apprehended by the police party and disclosed that their names as Prabhdeep Singh @ Deepa resident of Kamal Wala, Amrit resident of Abohar and Manna resident of Jalalabad. They further disclosed the names of the occupants of the Scorpio car as Gurpreet Singh @ Ginda and Harvinder Singh @ Bhinda (present petitioner). In-charge, CIA Staff-2 Tarjinder Singh along with police party reached the spot and chased the petitioner and co-accused Gurpreet Singh @ Ginda, who fled away from the spot, but later on apprehended along with various weapons. A country made pistol, four live and two empty cartridges were recovered from the possession of present petitioner. 2.4 FIR was registered. Special Investigation Team was formed by the Senior Superintendent of Police, Bathinda. During interrogation, petitioner disclosed about having committed various offences like robbery, dacoity, vehicles snatching etc. in the states of Punjab, Haryana and Rajasthan. During treatment, co accused Manpreet Singh @ Manna and Prabhdeep Singh @ Deepa died in the hospital. Their postmortem examination were got conducted.

2.5 After completion of the investigation, challan was presented in the competent Court. Charges were framed against accused including Page No.3 out of 7 pages 3 of 7 Neutral Citation No:=2024:PHHC:000502 CRM-M-14483-2023 Neutral Citation No. 2024:PHHC:000502 the petitioner on 31.07.2018. As on the date of filing of the status report, 17 PWs out of 96 witnesses cited by the prosecution were reported to have been examined; whereas 03 witnesses had been given up. On the date of hearing of the petition, it was informed by learned State counsel that 22 witnesses have since been examined and 07 have been given up.

3. It is contended by learned counsel appearing for the petitioner that petitioner has been falsely implicated; that two of the accused sitting in the Fortuner car Prabhdeep @ Deepa and Manpreet Singh @ Manna had expired due to the injuries suffered by them in the police encounter; whereas another co-accused Amrit Pal Singh had suffered injuries, which indicate that a false story has been concocted by the police in order to show their performance. Learned counsel further contends that petitioner is in custody for the last approximately 06 years; that trial is proceeding at slow pace and likely to take long time to conclude and so, in all these circumstances, he be allowed bail.

4. Strongly opposing the bail petition, learned State counsel not only pointed out towards the gravity of the offence and the manner in which the same has been committed, but further drawn attention towards the criminal antecedents of the petitioner, who is involved in as many as 07 other cases as stated in para-No.6 of the status report, all pertaining to robbery, dacoity, snatching and Gangster Act etc. Prayer is made for rejecting the bail petition. Learned State counsel has also submitted that considering long period of custody of the petitioner, the Trial Court may be directed to expedite the trial.

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5. Replying to the aforesaid contentions, learned counsel for the petitioner submits that criminal antecedents of the petitioner cannot be a reason to decline the bail. He has relied upon "Prabhakar Tewari v State of U.P. & Anr.", 2020(1) R.C.R.(Criminal) 831, besides "Maulana Mohammed Amir Rashadi v. State of Uttar Pradesh and another", (2012) 2 SCC 382. Learned counsel has again reiterated his prayer for grant of bail by pointing out towards the long custody period of the petitioner.

6. I have considered submissions of both the sides and have appraised the record carefully.

7. Though in the status report, details of 07 cases are given, in which petitioner is involved, but the custody certificate reveals that in fact the petitioner is involved in as many as 09 other cases, most of which pertain to robbery, dacoity, snatching, Arms Act and Gangster Act, clearly indicating that he is a professional criminal. No doubt, the petitioner is in custody ever since 25.12.2017, as per the custody certificate placed on record, i.e., for the last more than 06 years, but the long custody in itself cannot be a ground to grant bail, having regard to the facts and circumstances of the case and the manner in which crime has been committed besides the criminal antecedents of the petitioner.

8. As far as Prabhakar Tewari's and Maulana Mohammed Amir Rashadi's cases (supra) relied upon by learned counsel for the petitioner are concerned, it was held therein that the factor that several cases are pending against the accused cannot themselves be the basis for refusal of prayer for bail. However, what is important to notice is that in both the Page No.5 out of 7 pages 5 of 7 Neutral Citation No:=2024:PHHC:000502 CRM-M-14483-2023 Neutral Citation No. 2024:PHHC:000502 abovesaid cases i.e., Prabhakar Tewari's and Maulana Mohammed Amir Rashadi's cases (supra), High Court had granted the bail and the petition before the Apex Court was moved for cancellation of bail. It was observed by the Hon'ble Supreme Court that parameters for cancellation of bail were

entirely different and that two key factors for interfering with such an order granting bail are; (i) non-application of mind on the part of the Court for granting bail; or (ii) the opinion of the Court for granting bail is not borne out from prima facie view of the evidence on record. It was in that context that Hon'ble Supreme Court had held that even if the offence in question is grave and serious and there are several criminal cases pending against the accused, these factors by themselves cannot be basis for refusal of prayer of bail.

9. In the present case, the offences committed by the petitioner are quite grave. He is involved in numerous cases involving commission of heinous crimes. The apprehension expressed by learned State counsel to the effect that petitioner may influence the witnesses, if he is allowed bail, cannot be ruled out.

10. Having regard to the criminal antecedents of the petitioner and considering the overall circumstances as discussed above, but without commenting anything on the merits of the case, this Court is not inclined to grant bail to the petitioner. However, at the same time, considering the long incarceration of the petitioner, the Trial Court concerned is directed to make every possible endeavor to expedite the trial by giving short dates.

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Neutral Citation No. 2024:PHHC:000502 Dismissed.

January 05, 2024  
Sarita

(DEEPAK GUPTA)  
JUDGE

Whether reasoned/speaking: Yes/No  
Whether reportable: Yes/No

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