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CRM-M-23137-2015
HARNARAIN SINGH V/S STATE OF PUNJAB

Present: Mr. P.S. Hundal, Sr. Advocate with
Mr. Dinesh Trehan, Advocate
for the petitioner.

Mr. Arshdeep S. Kler, DAG, Punjab.

Mr. Sunil Toni, Advocate
for the complainant.

Vide this order CRM-M-22675 of 2015 (Major Singh Vs. State of Punjab) and CRM-M-23137 of 2015 (Harnarain Singh Vs. State of Punjab) are being disposed of.

FIR No.43 dated 15.03.2013 was registered under Sections 302, 307, 148, 149 IPC and under Sections 25, 27, 54, 59 of the Arms Act, Police Station Bhikhiwind, District Tarn Taran. Prosecution case is that there were two factions in the village. A meeting was convened in gurudwara by the faction belonging to Sarpanch Dilbag Singh. After conclusion of the meeting, party was coming back to the house of Dilbag Singh, Sarpanch. Occurrence took place wherein Baldev Singh fired a shot from his licenced double barrel 12 bore gun which hit on the right eye of Guravtar Singh (father of the complainant). Petitioner-Harnarain Singh is alleged to have fired from licensed 12 Bore which hit Dharambir Singh on the forehead, left side of chest, left shoulder, left knee and right & left side of his neck. Petitioner-Major Singh is also alleged to have fired from DBBL gun hitting Yudhvir Singh on his left side of neck, above left ear,

left shoulder, left side of forehead and above forehead. Similarly, Gurdev Singh also fired two shots from his DBBL 12 bore gun, hitting Stalanjit Singh on his arm, right shoulder, right biceps, right wrist and left side of chest. Kulwant Singh fired two shots from his DBBL 12 bore gun hitting Virpal Singh on his left shoulder, left bicep, left side of neck, left wrist and above forehead. Baldev Singh repeated fire on Swarn Singh, hitting him on the shoulder left bicep, left eye and above right eye. Similarly, Harnarain Singh-petitioner also repeated fire from his DBBL 12 bore hitting Jasbir Kaur on the forehead. The investigation of the police reveals that only 6 cartridges were recovered. All the cartridges are found to have been fired from 12 DBBL bore gun bearing No.13504/2009. There is no report in respect of other guns allegedly recovered from the petitioners. 12 bore DBBL gun No.13504/2009 belongs to Baldev Singh.

Guravtar Singh, Dharambir Singh died in the aforesaid occurrence. Learned counsel for the petitioner contends that since the guns belonging to the petitioner Major Singh as well as Harnarain Singh-petitioner have not been used in the occurrence, nor there is any report from FSL showing use of aforesaid guns, therefore, false implication qua them cannot be ruled out.

In case of co-accused Kulwant Singh, this Court has

passed an order dated 06.07.2015, granting bail to him on the aforesaid premise.

Learned counsel for the petitioner-Harnarain Singh contends that since single barrel gun belonged to him, has been recovered and in the event of reloading of gun for the purposes of firing second shot, earlier cartridge has to be recovered and should have been subjected to matching configuration. Prima facie, the prosecution case has to be tested on the basis of available material on record. At this stage, this Court is of the view that on parity basis, Major Singh as well as Harnarain Singh can be granted benefit of regular bail. The distinction which is sought to be made qua Harnarain Singh that he fired on the person of Dharambir Singh has to be tested at trial in view of recovery of single barrel gun from the petitioner vis-a-vis FSL report, showing use of DBBL gun No.13504/2009 belonging to Baldev Singh only.

Learned counsel for the complainant vehemently submitted that benefit of tainted investigation should not be given to the accused. Apparently, the complainant has also not filed application under Section 173 (8) Cr.P.C. nor filed any criminal complaint in the Court.

Learned State counsel on instructions from HC Satnam Singh states that out of 34 witnesses, only one witness

has been examined. Trial may take sometime for its ultimate culmination.

Without embarking upon the merits of this case, at this stage, petitioners are ordered to be released on bail subject to furnishing bail bonds/surety bonds to the satisfaction of CJM, Tarn Taran.

Nothing expressed hereinabove would be construed to be an expression of opinion on merits of this case.

(RAJ MOHAN SINGH)
JUDGE

July 27, 2015

SwarnjitS