

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

(205)

CRM-M-29649-2015

Decided on: December 01, 2015.

Gurbhej Singh

.... Petitioner

Versus

State of Punjab

..... Respondent

CORAM: HON'BLE MR. JUSTICE M.M.S. BEDI

Present: Mr. B.S. Sra, Advocate, for the petitioner.

Ms. Harpreet Kaur Athwal, DAG, Punjab.

M.M.S. BEDI, J (ORAL)

Petitioner apprehends arrest in the cross-version recorded in the FIR which was registered at the instance of his brother Gurbir Singh alleging that Sukhwinder Singh @ Sukha, Dilbagh Singh, Darbara Singh along with other persons had come to land of complainant Gurbir Singh on 24.11.2014 armed with weapons and followed the complainant and the petitioner besides firing at them. As per allegations of Gurbir Singh, the gun shot fired by said persons hit his sister Jagdish Kaur resulting in her death.

A cross-version was recorded on the statement of Darbara Singh alleging that the petitioner had sold about 4 kanals of land to Darbara Singh, Sukhwinder Singh @ Sukha and Dilbagh Singh etc. but despite receipt of sum of Rs.8 lacs, they had refused to hand over the possession or

transfer the land. Pursuant to the order passed by SDM Tarn Taran, a sale deed was ordered to be executed in favour of Paramjit Kaur, Sarabjit Kaur wife of Darbara Singh and Rupinder Kaur wife of Palwinder Singh. After execution of sale deed, the petitioner was not handing over the possession as a result of which on 23.11.2014 complainant Darbara Singh and his brother Sukhwinder Singh @ Sukha, had gone to the house of the petitioner to persuade him to hand over possession. Jagdish Kaur was also present in the house. She had asked Gurbhej Singh that he should hand over possession of 4 kanals land to Darbara Singh etc. While Sukhwinder Singh @ Sukha, Darbara Singh and Dilbagh Singh were sowing wheat in the said 4 kanals of land on 24.11.2014, the petitioner armed with .12 bore gun, his brother Gurbir Singh armed with sickle, Sukhjinder Singh, Kabal Singh, Balwinder Singh and wife of Gurbhej Singh etc raised lalkara to catch hold of them and teach them a lesson for sowing wheat on their land. The petitioner fired at Darbara Singh. His sister Jagdish Kaur tried to intervene as a result of which she was hit by gun shot fired by the petitioner. The petitioner, on the exhortion of Gurbir Singh had again fired a shot at Darbara Singh, the pellets of which hit Darbara Singh and Sukhjinder Singh besides Jagdish Kaur, sister of the petitioner.

Learned counsel for the petitioner has vehemently contended that it is a case of cross-version and the petitioner has joined investigation. He has further submitted that the petitioner has fired in self defence when Sukhjinder Singh and others had made an attempt to take forcible possession. He has further submitted that as per the report of investigation gun shot fired by the petitioner had accidentally hit Jagdish Kaur, his sister.

I have heard learned counsel for the petitioner as well as learned State counsel.

There does not appear to be any dispute regarding the fact that it is a case of cross-version. Both the parties have made an attempt to take law in their own hand by firing at each other. There are allegations and counter allegations of firing. It will be absolutely pre-mature, at this stage, to determine as to who was aggressor party, when a cross-version has already been recorded but the fact remains that gun shots fired by the petitioner had hit Sukhjinder Singh on his bicep and Darbara Singh on his head besides his own sister having died on account of gun shot injury. No doubt, the petitioner has joined investigation. It will be debatable during trial whether the petitioner was justified in the circumstances of the case to fire in self defence or it was a case where he exceeded self defence in firing upon Sukhjinder Singh and Darbara Singh. The aggressive attitude of the petitioner, apparent on the record, do not warrant grant of concession of pre-arrest bail to the petitioner.

The petition is dismissed. It is, however, observed that the circumstances of the present case may warrant grant of regular bail to the petitioner after his arrest or surrender.

Nothing said in this order will prejudice the right of the parties at the time of trial or at the time of seeking concession of regular bail in accordance with law.

(M.M.S. BEDI)
JUDGE

December 01, 2015
harsha