

IN THE HIGH COURT OF PUNJAB AND HARYANA AT  
CHANDIGARH.

Date of Decision: May 11, 2016

1. CRM M-27932 of 2015

Rajinder Singh @ Chela Baba Chet Singh

.....Petitioner

Vs.

State of Punjab

.....Respondent

2. CRM M-36929 of 2015

Palwinder Singh @ Likhari and another

.....Petitioners

Vs.

State of Punjab

.....Respondent

3. CRM M-39781 of 2015

Bhola Singh

.....Petitioner

Vs.

State of Punjab

.....Respondent

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

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Present:- Mr.A.D.S. Sukhija, Advocate for the petitioner in CRM M-27932 of 2015.

Mr.Navjot Singh, Advocate for the petitioners in CRM M-36929 of 2015.

Mr. R.S. Rai, Sr. Advocate with  
Mr. Gautam Dutt, Advocate for the petitioner in CRM M-39781 of 2015.

Ms. H.K. Athwal, DAG, Punjab.

Mr.A.S. Brar, Advocate  
Mr. Parveen Kataria, Advocate

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**M.M.S. BEDI, J.**

This order will dispose of three petitions bearing CRMs M-27932, M-36929 and M-39781 of 2015 for grant of regular bail.

Brief resume of the allegations in the case registered at the instance of Davinder Singh Sra in FIR No.31, dated April 14, 2015 under Sections 302, 148, 149, 120-B IPC (Section 307 IPC added later on) and Sections 25, 27, 54, 59 of Arms Act (Section 30 Arms Act added later on), Police Station Sadar, District Moga is that Davinder Singh in his statement made to the police at Dagri Railway Crossing to SI, Police Station, Moga stated that he alongwith his younger brother Harinder Singh were residents of Canada with their families. Both of them had come to their house at Moga on April 1, 2015. His cousin sisters Sukhwinder Kaur and Jagmeet Kaur, daughters of Nachhatar Singh have land measuring 17 acres at Village Kaliwala and they had given this land on lease to Jagtar Singh and Ajaib Singh. They had sown the crop of wheat and on said date Jagtar Singh and

Ajaib Singh were harvesting the wheat crop with combine. The complainant alongwith his brother Harinder Singh and Ex-Sarpanch Gurbachan Singh were present in the fields at 5.30/6.00 p.m. when Kulvir Singh armed with .12 bore rifle in hand, Kuldeep Singh armed with 32 bore revolver, Barjinder Kaur widow of Parminder Singh alongwith her father Rajinder Singh and 4/5 unidentified persons armed with deadly weapons entered the land of Sukhwinder Kaur etc. Barjinder Kaur raised a lalkara stating that the complainant should not be permitted to escape and they should be killed by gunshots and they will be taught a lesson to harvest the wheat crop from the disputed land. On this Kulvir Singh fired a shot from .12 bore rifle held by him at Harinder Singh hitting him on the chin as a result of which he fell down on the ground. Kulvir Singh fired more shots but the complainant and Ex-Sarpanch Gurcharan Singh saved their lives by laying down on the ground. Kuldeep Singh also fired with his revolver. On raising alarm the said persons escaped from the spot in their cars SX4 and Scorpio parked on the road. The said persons had murdered Harinder Singh on the saying of Inspector Bhola Singh. So far as motive is concerned, it was stated that Barjinder Kaur had got a decree in her favour by preparing a forged Will of the land of their cousin sisters and when their cousin sisters came to know about the same, they filed a suit in the Court and got a stay in their favour but still Barjinder Kaur had a grievance and claimed rent of the land of which sisters of the complainant were owners in possession and had leased out the same to tenants who were harvesting the wheat crop.

The petitioners were represented by their respective counsels. Learned counsel for the petitioner Rajinder Singh has vehemently contended that the main attribution is against Kulvir Singh and Kuldeep Singh who had allegedly fired at Harinder Singh but the other accused have unnecessarily been dragged in without their being any specific attribution to them. It has been argued that Rajinder Singh is father of Barinder Kaur. He has not been specifically attributed any role. Merely because a civil litigation is pending pertaining to the land, he has been involved in the case. It was claimed that no injury was attributed to Rajinder Singh but he was allegedly a member of unlawful assembly.

So far as petitioner Palwinder Singh and Gurprit Singh are concerned, they were not named in the FIR but they have been made accused on the basis of the supplementary statement of the complainant under Section 161 Cr.P.C. Relying upon supplementary statement dated May 17, 2015, it has been argued that an attempt has been made to rope in all the persons who are known to main accused. Reference was made to another supplementary statement dated April 28, 2015 of the complainant recorded under Section 161 Cr.P.C. wherein these two petitioners were named by the complainant. It has been argued that no role has been attributed to both the petitioners but merely to wreck vengeance, on they being close relations and associates of the accused named in the FIR, they have been falsely implicated. It was claimed that challan having been presented, no useful purpose will be served by keeping them in custody.

So far as petitioner Bhola Singh is concerned, it was argued that he has unnecessarily been dragged in as an accused on vague allegations that he having acquaintance with Barinder Kaur had conspired with all other accused and the entire incident had taken place at his instance, he being a police official.

Petitions for bail were opposed by State counsel as well as counsel for the complainant contending that there is active connivance of all the petitioners in a pre-planned manner in committing the murder of Harinder Singh. So far as petitioners Palwinder Singh and Gurprit Singh are concerned, a reference was made to a number of criminal cases pending against them. State counsel informs that against Palwinder Singh, 13 criminal cases are registered in City Moga which are as under:-

| S.No. | FIR No. | Dated      | U/s                                                                | Police Station |
|-------|---------|------------|--------------------------------------------------------------------|----------------|
| 1.    | 272     | 30.9.2005  | 307, 325, 324, 148, 149 IPC, Sections 25, 54, 59 of the Arms Act.  | City Moga      |
| 2.    | 140     | 5.10.2006  | 392, 506, 34 IPC.                                                  | Mehna          |
| 3.    | 91      | 31.10.2008 | 307, 323, 436, 427, 506, 148, 149 IPC, 25, 54, 59 of the Arms Act. | Sherpur        |
| 4.    | 31      | 5.5.2009   | 452, 323, 148, 149 IPC                                             | Badani Kalan   |
| 5.    | 69      | 2009       | 307, 148, 149 IPC                                                  | Mehna          |
| 6.    | 131     | 13.10.2009 | 324, 323, 452, 148, 149 IPC, 25, 54, 59 of the Arms Act.           | Mehna          |

|     |     |            |                                                     |                 |
|-----|-----|------------|-----------------------------------------------------|-----------------|
| 7.  | 131 | 16.3.2011  | 382 IPC                                             | City Moga       |
| 8.  | 50  | 1.9.2011   | 382, 341, 353, 186, 34 IPC                          | Badani Kalan    |
| 9.  | 66  | 12.10.2011 | 395, 399, 148, 149 IPC, 25, 54, 59 of the Arms Act. | Badani Kalan    |
| 10. | 117 | 12.10.2011 | 382, 148, 149 IPC, 25, 54, 59 of the Arms Act       | Nihal Singhwala |
| 11. | 116 | 22.10.2011 | 382, 34 IPC                                         | Mehna           |
| 12. | 44  | 15.11.2011 | 411 IPC, 25, 54, 59 of the Arms Act                 | Dhanula         |
| 13. | 81  | 26.11.2014 | 323, 324 34 IPC                                     | Badani Kalan    |

They being habitual offenders and indulging in land grabbing should not be granted the concession of bail.

So far as petitioner Bhola Singh is concerned, it was argued that he is main conspirator and he has been named by all the witnesses whose statements have been recorded during the course of investigation.

It will be pre-mature to enter into the niceties of the trial and examine the admissibility or relevancy of the evidence available.

So far as petitioner Rajinder Singh is concerned, he is stated to have specific motive being interested in the property regarding which his daughter Barinder Kaur has got litigation. He is stated to be an old man but he being present on the spot and extorted other accused, his petition was contested vehemently. The role of accused Rajinder Singh in having actively participated as member of unlawful assembly do not warrant grant of bail to him.

With the assistance of counsel for the petitioners, complainant and State counsel, I have gone through the entire challan and I am of the opinion that there is apparent civil litigation pertaining to the land between the parties. The petitioners are alleged to have actively participated in the entire episode by conniving with the main accused Kulvir Singh who is alleged to have fired shot at Harinder Singh. The antecedents of Palwinder Singh and Gurprit Singh, the overwhelming statements of all the witnesses regarding their conspiracy and the active participation of Rajinder Singh do not warrant the grant of concession of bail to them.

All the petitions are dismissed. Nothing said in this order will prejudice the rights of the parties at the time of final adjudication. However, the trial Court is directed to conclude the trial expeditiously preferably within a period of four to six months.

May 11, 2016  
sanjay

(M.M.S.BEDI)  
JUDGE