

**Sr. No. 220
IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

**CRM No. M-34704 of 2015
Date of decision: 19.01.2016**

Nirmal Singh and another

...Petitioners

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE TEJINDER SINGH DHINDSA

Present: Mr. Sant Pal Singh Sidhu, Advocate,
for the petitioners.

Mr. K.D.Sachdeva, Additional A.G.Punjab.

Mr. H.S.Baath, Advocate,
for the complainant.

TEJINDER SINGH DHINDSA, J. (ORAL)

This order shall dispose of the present petition filed under Section 439 Cr.P.C. seeking benefit of regular bail to the petitioners pending trial in case FIR No.49 dated 09.04.2015, under Sections 302, 307, 341, 148, 149 of the Indian Penal Code and Sections 25, 27, 54, 59 of the Arms Act, registered at Police Station, Bhikhiwind, District Tarn Taran.

Counsel for the parties have been heard.

FIR was registered on the statement of Lakhwinder Singh. Occurrence is stated to be of 09.04.2015 and the name of the deceased is Karamjit Singh son of Lakhwinder Singh. Complainant's version is of 07.04.2015 during the marriage of one Jagroop Singh, a

quarrel took place between two parties and on account of which a grudge was being nursed. On 09.04.2015, when the complainant along with his son Karamjit Singh, Gurpreet Singh and Gurchet Singh were going on two motor cycles, they were stopped by the two petitioners herein. Petitioner No.1 is stated to be armed with a Kirpan and petitioner No.2 armed with a Barcha. Even as per version of the complainant, at that point of time, the petitioners did not cause any injury. Thereafter, the complainant, his son Karamjit and the others as aforenoticed ran away and entered the house of Puran Singh. From the adjoining house of Balwant Singh, shots are stated to have been fired. Specific allegations are that Balwant Singh armed with a 315 bore rifle fired a shot towards Karamjit which hit him in his right eye. Jaswant Singh co-accused is stated to have fired a shot from his .12 bore gun which hit Gurchet Singh on his left shoulder.

Learned State counsel would submit that as per post-mortem report of Karamjit Singh, he has suffered a single gun shot injury in his right eye and which was the cause of the death. There are no other injuries on the body of deceased Karamjit Singh.

Mr. H.S.Baath, learned counsel who has put in appearance on behalf of Gurchet Singh injured would oppose the present petition by submitting that the petitioners had joined other co-accused with a common intention and had followed the deceased as also the injured into the village and it is in such occurrence that a life has been lost.

Having heard counsel for the parties, this Court is of the considered opinion that petitioners are entitled to the benefit of bail.

It has gone uncontroverted that during the course of investigation, the present two petitioners have not even been challaned. However, after the presentation of challan against Balwant Singh and Jaswant Singh, the competent Court of jurisdiction arrayed all such persons named in the FIR and committed the case to the Court of Sessions.

Even as per complainant's version, the present petitioners were stated to have been armed with a Kirpan and a Barchha, yet no overt act has been attributed to them. Even as regards deceased Karamjit Singh and injured Gurchet Singh, there are no injuries caused by a sharp-edged weapon. The direct attribution is to Balwant Singh having fired at Karamjit Singh and Jaswant Singh having fired a shot to Gurchet Singh.

Under such circumstances, the question as to whether offence under Section 302 IPC being made out against the present petitioners would be a moot question to be considered during course of trial.

Petitioners have been in custody since 09.04.2015.

In view of the observations made here-in-above and coupled with length of incarceration already suffered by the petitioners, they are held entitled to the benefit of bail. The petition is allowed. Petitioners be enlarged on bail subject to the satisfaction of the Chief Judicial Magistrate/Duty Magistrate, Tarn Taran

It is made clear that the observations made in this order are confined only as regards considering the prayer of the petitioners for grant of bail and would have no bearing on the merits of the case.

Disposed of.

January 19, 2016

vandana

**(TEJINDER SINGH DHINDSA)
JUDGE**