

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

**CRM-M No.887 of 2016 (O&M)
Date of Decision: 21.01.2016**

Palwinder Singh @ Boora

..... Petitioner

Versus

State of Punjab

..... Respondent

CORAM: HON'BLE MR. JUSTICE JASWANT SINGH

Present: Mr. P.S.Hundal, Senior Advocate assisted by
Mr. Jashandeep Singh, Advocate for the petitioner.

Mr. Mikhail Kad, Assistant Advocate General, Punjab
for the respondent/State assisted by ASI Baljit Singh.

JASWANT SINGH, J. (Oral)

Prayer is for grant of regular bail under Section 439 Cr.P.C. on behalf of the petitioner/accused in case FIR No.118 dated 25.08.2013, under Sections 302, 307, 323, 148, 149 of the Indian Penal Code (for short 'IPC') and Sections 27, 54, 59 of the Arms Act, registered with Police Station Jhabhal, District Tarn Taran.

As per the allegations in the FIR lodged by Sukhchain Singh, on the day of occurrence i.e. 25.08.2013 at 9:00-9:30 AM, a quarrel had occurred on account of the wife of the present accused-petitioner, namely, Kulwant Kaur stubbornly making cow dung cakes in a shamlat land earmarked for developing a Park. On being restrained, the petitioner/accused along with his other co-accused is alleged to have given beatings to the complainant party/restraining party. Thereafter, petitioner/accused-Palwinder Singh is alleged to have gone on the roof top of his house and fired shots from his .12 bore Double Barrel licensed gun while his companions started throwing brickbats upon the complainant party. The pellets of the fired shots are stated to have hit Baldev Singh (*Taya* of the complainant) and due to the injuries, he subsequently died on 31.08.2013.

Learned Counsel for the petitioner submits that Kulwant Kaur-wife of the petitioner/accused (as per the Medicolegal Report in the police file) had suffered two injuries including one on the right side of the head, requiring five stitches. The petitioner thereafter is alleged to have fired shot from a distance (from the roof top of his house) and it is only stray pellets, which had hit the deceased-Baldev Singh. He further submits that Baldev Singh had died after six days of the occurrence and as per the Post Mortem Report, the cause of death was due to Septicemia of the injuries caused by the firearm.

In the backdrop of the aforesaid facts, it was contended that it is highly debatable, *firstly* whether any offence for murder would be made out on account of the exceptions (sudden provocation) to Section 300, IPC, *secondly* whether even the offence of culpable homicide not amounting to murder would be attracted.

It was further submitted that the petitioner is in custody for almost 2 ½ years since 25.08.2013 and after summoning of the additional accused under Section 319 Cr.P.C., only 02 out of 22 cited prosecution witnesses have since been examined.

Learned State Counsel submits that the legal argument as to what offence would be made out is a matter of trial, however, at this stage, due to the eye-witness account, no case for grant of bail is made out. He, however, on instructions from ASI Baljit Singh, does not dispute the custody period of the petitioner, as also the initial stage of the trial.

Without commenting on the merits of the case, keeping in view the custody period and the facts as noticed above, this Court finds that petitioner/accused deserves the concession of regular bail and as such he is ordered to be released on bail to the satisfaction of CJM/Duty Magistrate Tarn Taran.

Disposed of.

January 21, 2016

Gagan

(JASWANT SINGH)
JUDGE