

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

**Criminal Misc. No.M-21566 of 2011 (O&M)
Date of Decision: August 10, 2017**

Harjeet Singh Gill

.....PETITIONER(s).

VERSUS

Union of India and another

....RESPONDENT(s).

CORAM:- HON'BLE MR. JUSTICE SURINDER GUPTA

Present: Mr. H.S. Bhullar, Advocate
for the petitioner (s).

Mr. J.S. Lalli, Advocate
for Union of India.

Mr. S.S. Sandhu, Advocate
Special Prosecutor for CBI.

Ms. Rajni Gupta, Senior D.A.G. Punjab.

SURINDER GUPTA, J.

Initially, petitioner Harjeet Singh Gill had filed Criminal Writ
Petition under Articles 226/227 of the Constitution of India read with
Section 482 of the Code of Criminal Procedure, claiming the relief as
follows :-

- “(a) to call for the records of case RC9(S)/95/SIU-V
dated 1.9.1995, Police station
SIU.V/SIC.II/CBI/DSPE, New Delhi, State (CBI)
Vs. Balwant Singh & Others for perusal;
- (b) direct the deletion of name of the petitioner from
column No.2 of the charge-sheet so filed in the

above referred case Under Section 173 (2) of Code of Criminal Procedure.”

2. The Criminal Writ Petition filed by the petitioner was later treated as Criminal Miscellaneous Petition as per order of Hon'ble the Acting Chief Justice and was registered as Criminal Misc. No.M-21566 of 2011.

3. The petitioner has alleged that after the death of his father, he along with his mother immigrated to USA in the year 1992 from where he went to Canada and came to India in 1994. He stayed here for two months and again went to USA, where he is residing now with his wife and daughters. Presently, he is US Citizen and residing in the State of Maryland. He has been arrayed as accused in the charge-sheet of the case bearing No. RC9(S)/95/SIU-V dated 1.9.1995 titled as Central Bureau of Investigation (CBI) Vs. Bhagwant Singh and others. He was not summoned by CBI at any point of time. For some time before filing of this petition, police visited the village of petitioner and contacted his mother, who apprised the police that petitioner has settled in USA. She gave telephone number of the petitioner to the police on which he was contacted. Despite knowing the whereabouts of the petitioner, no steps were taken to call the petitioner to defend his case. In fact, police has no evidence against the petitioner, as such, keeping the name of petitioner in final report submitted by the CBI, is not justified. Petitioner has apprehension that the moment, he will visit India, he will be harassed by the CBI. For the reasons discussed above, the petitioner has sought deletion of his name from column No.2 of the charge-sheet in the case filed by CBI.

Section 302, 307 read with Section 120-B of Indian Penal Code and Sections 3 and 4 of Explosive Substances Act, was registered at Police Station North Chandigarh for the incident dated 31.08.1995 in which former Chief Minister of Punjab S. Beant Singh and 16 others got killed and 15 were injured in a powerful bomb explosion near the VIP Gate of Punjab and Haryana Civil Secretariat, Chandigarh, triggered by Dilawar Singh, who acted as '*human bomb*'. The investigation was later handed over to CBI which after completion of investigation, presented challan against accused Gurmeet Singh, Lakhwinder Singh, Jagtar Singh @ Tara, Navjot Singh and Nasib Singh. Accused Wadhwa Singh, Mehal Singh, Jagtar Singh Hawara, Paramjeet Singh, Balwant Singh, Jagrup and Shamsher were declared as absconders. On arrest of Shamsher Singh, a supplementary charge-sheet was filed. Jagtar Singh Hawara and Balwant Singh were arrested by Punjab police on 22.12.1995. Both were formally arrested by CBI on 14.01.1996 and 20.01.1996.

5. The investigation of the case disclosed a criminal conspiracy hatched by the accused, which find mention in para 5 of the reply filed by the CBI, describing the role of petitioner Harjeet Singh in the incident as follows:-

“(i) After Wadhwa Singh, Mahal Singh and Jagtar Singh Hawara agreed to assassinate S. Beant Singh in November, 1994 at Lahore, one Harjit Singh son of Harnek Singh came from USA to India sometime in March/April, 1995, who is a friend of accused Balwant Singh. Harjit Singh met Balwant Singh in Patiala at the latter's residence and stayed with him. Accused Balwant Singh and Harjit Singh attributed the

atrocities being committed by the Public Police to S. Beant Singh as “he had given free hand to police to eliminate any person who raised a voice and the Govt. was playing with the honour of people.” Accused Balwant Singh & Harjit Singh agreed that S. Beant Singh should be killed. Hence, Balwant Singh gave Harjit Singh Tel. No.212097 of Bhushan Sarhandi, Patiala with whom he was deployed as gunman, as his contact number.

(ii) Sometime in early June, 1995, Harjit Singh rang up Balwant Singh on the aforesaid Tel. number and told him that some old Sikh gentleman would contact him in connection with the task they had discussed and agreed to execute.”

6. In reply filed on 25.04.2011, the role of petitioner has been described as follows:-

“(6) That during investigation, after arrest of absconding accused Balwant Singh, CBI filed supplementary charge sheet 6-B/95 on 19.02.1996 in the case against accused Balwant Singh and Jagtar Singh Hawara, while the remaining absconders accused namely Manjinder Singh Grewal, Resham Singh and accused-applicant Harjit Singh Gill were shown in the column No.2 of the charge-sheet as they continued to evade arrest and remained absconders in this case. Accused Harjit Singh Gill S/o Sh. Harnek Singh and accused Manjinder Singh @ Babu S/o Ujagar Singh have been absconding since the offence which was committed on 31.08.1995. Proclamation orders U/s 82 of Cr.P.C. have been issued on 31.10.1995 by the court of Id. Chief Judicial Magistrate, Chandigarh against absconded accused persons in the case namely Wadhwa Singh, Jagtar Singh Hawara, Paramjit Singh, Balwant Singh and Jagrup Singh

including Harjit Singh Gill and Manjinder Singh Grewal @ Baba. Later on, during the course of investigation of the case, accused Balwant Singh, Jagtar Singh Hawara and Paramjit Singh were arrested and charge-sheeted in the Court of Law by filing supplementary charge-sheets in the case.

7. That, the petitioner has a status of accused person in this case, who has been charge-sheeted. Since beginning, he is at large and remained absconder. In the supplementary charge-sheet No.6-B/95 dated 19.02.1996 in C.B.I. Case i.e.RC9(S)/95/SIU/SIC.II/CBI, New Delhi, (Sardar Beant Singh Assassination case) photocopy enclosed as **Annexure-I** (12 sheets), his name was mentioned at Serial No.3 in Column No.2 and his role has been elaborately mentioned in the body of the supplementary charge-sheet, on page No.4, which is reproduced here as under:-

'(i) After Wadhwa Singh, Mehal Singh and Jagtar Singh Hawara agreed to assassinate S. Beant Singh in November 1994 at Lahore, one Harjit Singh S/o Harnek Singh came from USA to India some time March/April, 1995, who is a friend of accused Balwant Singh. Harjit Singh met Balwant Singh in Patiala at the latter's residence and stayed with him. Accused Balwant Singh and Harjit Singh attributed the atrocities being committed by the Public Police to S. Beant Singh as "he had given free hand to police to eliminate any person who raised a voice and the Govt. was playing with the honour of people." Accused Balwant Singh & Harjit Singh agreed that S. Beant Singh should be killed. Hence, Balwant Singh gave Harjit Singh Tel. No.212097 of Bhushan Sarhandi,

Patiala with whom he was deployed as gunman, as his contact number.

(ii) Sometime in early June, 1995, Harjit Singh rang up Balwant Singh on the aforesaid Tel. number and told him that some old sikh gentleman would contact him in connection with the task they had discussed and agreed to execute.”

8. That later on, absconding accused Balwant Singh was arrested by Punjab Police on 22.12.1995. he was formally arrested in this case by the CBI on 14.01.1996 and remanded to police custody. During police custody, accused Balwant Singh volunteered to make confession and he was produced before the Court of Ld. ACMM, Patiala House Courts, New Delhi on 22.01.1996 and the court sent him to judicial custody. Accused Balwant Singh made a confessional statement on the following day which was duly recorded by Sh. V.K. Maheshwari, M.M. Patiala House Courts, New Delhi on 23.01.1996 U/S 164 Cr.P.C. In his statement recorded U/s 164 Cr.P.C., accused Balwant Singh disclosed in detail as to how he and other co-accused persons namely Harjit Singh Gill, Manjinder Singh Grewal @ Baba, Jagtar Singh Hawara conspired and killed Sardar Beant Singh and others on 31.08.1995. The photocopy of confessional statement of accused Balwant Singh recorded U/s 164 Cr.P.C. is also enclosed herewith as **Annexure-II** for ready reference (20 sheets).”

7. Learned counsel for the petitioner has argued that the incident took place in the year 1995. The police/CBI has not taken the assistance of Interpol or any other agency to arrest the petitioner or to join him in the investigation of the case. The main accused named in the FIR have already

been convicted and sentenced and their appeal has also been dismissed by this Court. In these circumstances, there is no purpose of keeping the charge-sheet filed by the CBI alive against the petitioner and has sought removal of name of petitioner from that charge-sheet.

8. Learned Special Prosecutor for CBI has argued that the petitioner was deeply involved in the incident, resulting in murder of former Chief Minister of Punjab S. Beant Singh and 16 other persons. The incident also resulted in injuries to 15 other persons. The petitioner was one of the main conspirator along with Balwant Singh, Jagtar Singh Hawara and Manjinder Singh, whose common object was assassination of S. Beant Singh. He has also provided financial help to accused Balwant Singh and Jagtar Singh Hawara through accused Resham Singh, settled in Germany. The petitioner is a proclaimed offender and there is sufficient evidence of his involvement in the crime in this case. He is a citizen of United States of America. He will be taken into custody as and when he comes to India and will be put to trial. He is well aware of the fact that he is required by police in India. Present petition was filed in 2011. He has never opted to come to India to join investigation.

9. The petitioner has sought removal of his name from the charge-sheet on the ground that a period of 22 years has elapsed after the incident. I do not feel it is a ground for removal of name of petitioner from the charge-sheet filed by CBI. Petitioner has not sought quashing of FIR registered against him. It is apparent and even not denied by the counsel for the petitioner that there is evidence of involvement of the petitioner in the entire incident. The name of the present petitioner cannot be removed from

the charge-sheet merely on the ground that he has succeeded in avoiding his arrest for a considerable long period. He is a US citizen and always have option to come to India and join investigation, surrender before Court or to avail other legal remedy available to him. The relief sought by him in present petition is virtually seeking quashing of FIR registered against him. From the evidence as available on police file, I find no reason to allow the relief as sought by the petitioner.

10. This petition has no merits. Dismissed.

August 10, 2017
Sachin M.

(SURINDER GUPTA)
JUDGE

Whether speaking/reasoned:

Yes/No

Whether Reportable:

Yes/No