

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

1. CRM-M-28797 of 2016
Date of Decision: 20.07.2017

Baljinder SinghPetitioner

VERSUS

State of PunjabRespondent

2. CRM-M-32469 of 2016

Harjit SinghPetitioner

VERSUS

State of PunjabRespondent

3. CRM-M-28332 of 2016

Bhupinder SinghPetitioner

VERSUS

State of PunjabRespondent

4. CRM-M-33378 of 2016

Gram Panchayat, Village Sanghreri and anotherPetitioners

VERSUS

State of Punjab and othersRespondents

CORAM:- HON'BLE MR. JUSTICE SURINDER GUPTA

Present: Mr. Ishan Gupta, Advocate
for petitioners in CRM-M-28797, CRM-M-32469 &
CRM-M-33378 of 2016

Mr. P.S. Ahluwalia, Advocate
for the petitioner in CRM-M-28332-2016 and
for complainant in other petitions.

Ms. Rajni Gupta, Sr. DAG, Punjab.

SURINDER GUPTA, J.(Oral)

CRM-M-28797 of 2016 & CRM-M-32469 of 2016

The above petitions have been filed by Baljinder Singh and

Harjit Singh, respectively seeking pre-arrest bail in case FIR No. 40 dated

22.05.2016 registered the offences punishable under Sections 307, 323, 447, 427, 148 read with Sections 149 and 120-B of Indian Penal Code (for short 'IPC') and 25/27 of the Arms Act, at Police Station Sadar Sunam, District Sangrur.

CRM-M-28332 of 2016

2. This is the petition filed by Bhupinder Singh praying for setting aside of impugned order dated 12.07.2016 passed by learned Sub Divisional Judicial Magistrate, Sunam, whereby respondent no. 7-Harjinder Singh @ Gaggi was ordered to be discharged from custody in case FIR No. 40 dated 22.05.2016, registered at Police Station Sadar, Sunam, District Sangrur. The petitioner has also sought action against respondents no. 3 to 6 i.e. Senior Superintendent of Police, Sangrur, Deputy Superintendent of Police, Sunam, Station House Officer, Police Station Sadar, Sunam, District Sangrur and Major Singh, ASI, Police Station Sadar, Sunam, District Sangrur for meddling in investigation of the case, when the same stood transferred outside their jurisdiction. He has also sought security to his life and liberty.

CRM-M-33378-2016

3. This petition has been filed by Gram Panchayat, Village Sanghreri through its *Sarpanch*-Manjit Kaur and Narinder Singh for issuance of direction for fair and unbiased investigation of the case bearing FIR No. 40 dated 22.05.2016, registered at Police Station Sadar, Sunam, District Sangrur.

4. All the aforesaid petitions are arising out of the same FIR, as such, have been taken up together.

5. FIR No. 40 dated 22.05.2016 was registered on the complaint of petitioner-Bhupinder Singh in CRM-M-28332-2016, wherein he alleged

that he was given possession of around 153 *kanals* 09 *marlas* of land in village Sanghreri. He had sown *bajra* crop in that land and was now preparing this land for sowing *jeeri* crop. On the day of occurrence i.e. 22.05.2016, he had gone to fields alongwith Gurcharan Singh, Nirbhai Singh, Bhagwant Singh, Pala Singh, Gurcharan Singh, Jagtar Singh and Gurmeet Singh. Their Swift car bearing registration no. PB-13AD-3737 and motorcycle etc. were also standing there, when Harjinder Singh @ Gaggi armed with revolver, petitioner-Harjit Singh in CRM-M-32469-2016 armed with 12 bore gun and petitioner-Baljinder Singh @ Doctor in CRM-M-28797-2016 armed with 12 bore gun, *sarpanch*-Manjit Kaur, Rupinder Kaur, Gurjant Singh, Kulwant Singh @ Ghukar, Gurtej Singh, Chetwant Singh, Hardeep Singh and some other persons named in the FIR armed with *dang* and swords came to the spot. Harjinder Singh @ Gaggi (non-petitioner) fired shot towards complainant while petitioner-Baljinder Singh in CRM-M-28797-2016 also fired shots with his 12 bore gun with intention to kill complainant and his associates, who fell down on the ground and saved their lives. Thereafter, they started beating complainant and other persons present with him and also damaged Swift car and the motorcycle parked there. Complainant alongwith his associates ran away from the spot to save their lives.

6. Learned counsel for petitioners in CRM-M-28797 and CRM-M-32469 of 2016 submits that it is a case of version and cross-version. There were eight injured having 56 injuries on the side of complainant while five injured with 13 injuries on the side of Baljinder Singh and others. Neither of the injured on both sides suffered any gunshot injury. During investigation, petitioner-Baljinder Singh in CRM-M-28797-2016 was found

innocent by the police. Allegation against accused-Harjinder Singh was that he had also fired shot but his presence as assailant was also not established and he was got discharged from custody by the police. The investigation is still in progress. The police has also arrested two persons in cross-case and injuries on the person of petitioner-Baljinder Singh were found simple in nature.

7. Learned counsel appearing for complainant-Bhupinder Singh has argued that it is a case of highhandedness of police, which did not take action against accused-Baljinder Singh and others, who intruded the land of complainant and caused injuries to so many persons. While referring to affidavit of Sarabjit Singh, PPS, Assistant Inspector General of Police, Litigation, Bureau of Investigation, Punjab, he has argued that even after the transfer of investigation of case to Superintendent of Police (Investigation), Patiala, Senior Superintendent of Police, Sangrur got Harjinder Singh @ Gaggi discharged despite having no jurisdiction to move application before the Court. Order dated 12.07.2016 passed by the Court, as such, is non-est in the eyes of law and is liable to be set aside. He has further argued that opinion of police that petitioner-Baljinder Singh in CRM-M-28797-2016 was found innocent during investigation is also biased one and is subject to further investigation by Superintendent of Police (Investigation), Patiala. Both petitioner-Baljinder Singh as well as petitioner-Harjit Singh in CRM-M-32469-2016 were members of unlawful assembly, which caused serious injuries to eight persons from the side of complainant party, as such, they are not entitled to benefit of pre-arrest bail.

8. Learned State counsel has argued that after transfer of investigation from Senior Superintendent of Police, Sangrur to

Superintendent of Police (Investigation), Patiala, Director, Bureau of Investigation, Punjab is personally supervising the investigation in this case. While there were eight injured from the side of complainant party, five persons from the side of petitioner-Baljinder Singh (CRM-M-28797-2016) and others have also suffered injuries. Injuries on the person of petitioner-Baljinder Singh were found simple in nature. Police has proceeded against accused named in the cross-version case for offences punishable under Sections 324 and other sections of IPC. A number of persons have been named as accused on both sides and the investigation is still pending.

9. Firstly, I take petitions (CRM-M-28797 & CRM-M-32469 of 2016) filed by Baljinder Singh and Harjit Singh seeking pre-arrest bail.

10. As per version in the FIR, petitioner-Harjit Singh has not been attributed any injury. It is alleged that petitioner-Baljinder Singh had fired shot from his gun but there is no firearm injury.

11. Keeping in view nature of role attributed to petitioners, Baljinder Singh and Harjit Singh and the fact that the matter is still under investigation, I allow both the petitions (CRM-M-28797 and CRM-M-32469 of 2016) and order dated 21.10.2016 passed in both the petitions is made absolute till the presentation of challan, subject to the following terms:-

- (i) that petitioners shall make themselves available for interrogation by the police as and when required;
- (ii) that petitioners shall not, directly or indirectly, make any inducement, threat or promise to any person acquainted with the facts of the accusation against them so as to dissuade him from disclosing such facts to the Court or to any police officer;

- (iii) that petitioners shall not leave India without the prior permission of the Court.
- (iv) that petitioners will seek regular bail on the presentation of challan in Court.

12. In petition CRM-M-28332 of 2016 complainant-Bhupinder Singh has sought setting aside of order dated 12.07.2016 passed by Sub Divisional Judicial Magistrate, Sunam on the application of ASI Major Singh, who presented before the Court that accused-Harjinder Singh @ Gaggi has been found innocent during investigation, as such, he may be discharged from custody. The Court allowed the application and discharged accused-Harjinder Singh @ Gaggi from custody.

The investigation of the case has been entrusted to Superintendent of Police (Investigation), Patiala through Deputy Inspector General of Police, Patiala Range and Superintendent of Police, Patiala, who has joined both the parties in investigation; examined them and visited the spot. The police during investigation has found that there was dispute over delivery of possession of land to Bhupinder Singh on 04.03.2016. After investigation, it has been stated by Assistant Inspector General of Police, Bureau of Litigation, Punjab in his affidavit that *“As per the abovesaid report of the Inspector General of Police, Zone-I, Punjab, Patiala, the case was entrusted to the SP/Investigation, Patiala through DIG/Patiala Range and SSP/Patiala. As per report of the Inspector General of Police, Zone-1, Punjab, Patiala, the SP/Investigation, Patiala joined both the parties in the investigation and examined them and visited the spot. The SP/Investigation, Patiala has found that possession of the land was got delivered to the petitioner Bhupinder Singh on 4.3.2016 with the help of police on the orders of Hon'ble Punjab and Haryana High Court,*

Chandigarh. Before the possession of this land was got delivered, the village was divided into two parties, one party was helping the present Sarpanch Manjit Kaur and Harjinder Singh @ Gaggi etc. and the second party was found to be helping the petitioner and Harbans Singh etc. Gurcharan Singh @ Bhushan etc. armed with deadly weapons (12 bore guns) were found to be present on the day of occurrence there due to their personal grudge with intention to raise quarrel with them though they have got no concern with the disputed land. From the above, it is evident that they had pre-planned that if Sarpanch of the village Manjit Kaur or Harjinder Singh @ Gaggi will interfere in the land, then they will cause loss to their life and property and take revenge of their personal grudge. Manjit Singh, Gurcharan Singh @ Bhushan etc. were found to have opened fire on Harjinder Singh @ Gaggi and party gave them beatings and caused damage to their vehicles, who were not having any concern with the disputed land. Harjinder Singh @ Gaggi of opposite party duly armed with deadly weapon in a planned manner alongwith Sarpanch Manjit Kaur of the village, villagers and Nihand Singh attacked on Bhupinder Singh petitioner to take possession of the land, possession of which was delivered to him on the orders of Punjab and Haryana High Court, Chandigarh. Investigation of SP/Investigation, Patiala revealed that Harjinder Singh @ Gaggi was found to be actually present and guilty in the present case, because Harjinder Singh @ Gaggi alongwith villagers of Sanghreri was pursuing this case in the Hon'ble Court till now regarding the disputed land and was actively playing role behind the entire episode.”

13. Observation of Investigating Officer call for no comments or scrutiny at this stage as further investigation is in progress. The

investigating officer is competent to seek custody of Harjinder Singh @ Gaggi, if he has sufficient material to arrest him during investigation, by moving an application in Court to this effect. The police got discharged Harjinder Singh from custody at a particular stage of investigation as he was found innocent. Action taken under the supervision and order of Senior Superintendent of Police, Sangrur is in the knowledge of superior officers and no reason is made out to set aside the same.

14. As stated by learned State counsel, Director, Bureau of Investigation, Punjab is supervising the investigation of this case through Inspector General of Police, Zone-I, Punjab, as such, petition (CRM-M-53378-2016) filed by Gram Panchayat, village Sanghreri seeking fair and unbiased investigation in this case has become infructuous and is disposed of accordingly.

15. The petition (CRM-M-28332-2016) filed by complainant-Bhupinder Singh seeking setting aside of order dated 12.07.2016 has also no merits and the same is dismissed.

July 20, 2017
jk

(SURINDER GUPTA)
JUDGE

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No