

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

1. CRM-M No.39617 of 2016

Gulab Singh and another

... Petitioners

Versus

State of Punjab

... Respondent

2. CRM-M No.41848 of 2016

Munish Kumar

... Petitioner

Versus

State of Punjab

... Respondent

3. CRM-M No.42540 of 2016

Tarun Kumar

... Petitioner

Versus

State of Punjab

... Respondent

4. CRM-M No.43241 of 2016

Vishav Partap Singh @ Tillu and another

... Petitioners

Versus

State of Punjab

... Respondent

5. CRM-M No.46044 of 2016

Ajay Partap @ Abhay Partap

... Petitioner

Versus

State of Punjab

... Respondent

6. CRM-M No.252 of 2017

Uday Partap Singh @ Udey Partap and another

... Petitioners

Versus

State of Punjab

... Respondent

Date of decision: 9th November, 2017

CORAM: HON'BLE MR. JUSTICE FATEH DEEP SINGH

Present: Dr. Anmol Rattan Sidhu, Senior Advocate with
Mr. Pratham Sethi, Advocate for the petitioners.
Mr. Ajay Pal S. Gill, Dy. Advocate General, Punjab
for the respondent/State.
Mr. Harpreet S. Brar, Advocate for the complainant.

FATEH DEEP SINGH, J.

All these bail applications, anticipatory under Section 438 Cr.P.C. by petitioners Gulab Singh, Charan Singh, Ajay Partap @ Abhay Partap, Vishav Partap Singh @ Tillu, Jasvir Singh @ Jasbir Singh and Tarun Kumar, and regular under Section 439 Cr.P.C. by petitioners Uday Partap Singh @ Uday Partap, Bakhshish Singh and Munish Kumar having arisen out of the same very case registered in cross-version by way of DDR/Rapat No.40 dated 22.04.2016 [in FIR No.81 dated 21.04.2016 under Sections 302, 307, 325, 324, 323, 148, 149, 201 IPC pertaining to Police Station Dera Bassi, District SAS Nagar (Mohali)] for the sake of brevity and for judicious comprehensive adjudication, are being taken up and decided together by way of this common order.

The allegations against the petitioners levelled by Raman Kumar resident of village Samgoli, Tehsil Dera Bassi lodged before Sub Inspector Kuldip Chand in brief were to the effect that they were having ancestral land over which they had a dispute with Charan Singh and others and the civil litigation went up to the Hon'ble Apex Court. He alleged that on 21.04.2016 around 9.30 a.m. when the complainant Raman Kumar along with his younger paternal uncle (chacha) Megh Raj,

father Mohinder Singh, elder paternal uncle (taya) Rajpal, brother Sandeep Kumar @ Pintu, Chaman Parkash @ Billa and Rinku were sitting in their fields, the present petitioners/accused side comprising of Gulab Singh, Charan Singh, Munish, Vijender (non-applicant), Abhay Partap, Tarun Partap, Bakhshish Singh, all armed with guns, along with Ajay Partap Singh, Paramjit Singh (non-applicant), Srivastava property dealer armed with *Kirpans* and Tillu @ Vishav Partap armed with *Gandasi*, Jasbir Singh armed with *Kulhari*, all co-villagers of the complainant side along with 60-70 other unidentified persons armed with *Kirpans*, *Gandasis*, *Kulharis* and *Lathis*, trespassed into their land with a harvest combine to harvest the standing wheat crop. It is alleged that Charan Singh accused petitioner gave a lalkara that today they will give them the entire land and thereafter from his gun Charan Singh gave a fire with an intention to kill which sneaked past left arm of the complainant at which Gulab Singh fired from his gun towards Megh Raj which sneaked near his ear while Vijender (non-applicant) and Tarun Partap gave fires towards Megh Raj hitting him on the upper and lower left arm as well as chest followed by fire of gun by Bakhshish Singh hitting Megh Raj on the stomach and Vijender Singh gave a fire on the right leg of Megh Raj. It is further alleged that Ajay Partap who was armed with Kirpan hit a blow on the right side of head of Chaman Parkash with an intention to kill, whereas accused petitioner Tillu alias Vishav Partap gave a Gandasi blow on Sandeep Kumar who in order to save himself raised his right

hand hitting right thumb. Abhay Partap gave a Gandasi blow on Sandeep Kumar whereas accused Paramjit Singh gave a blow on the right side of head of Rinku by means of Kirpan. The complainant has further stated that Bakhshish Singh again fired from his gun hitting right arm of complainant Raman Kumar. Jasbir Singh gave 2-3 Kulhari blows on the head of Mohinder Singh hitting on right side of his head, right eye and temple followed by a blow by accused Tillu @ Vishav Partap by means of Gandasi hitting Mohinder Singh on the head and thereafter the accused Srivastava gave a blow of his Kirpan hitting on the head of Rajpal followed by a fire by Tarun Partap by means of his gun hitting Rinku on the lower right arm and in this melee the complainant claims that their side was severely beaten up by the accused party and on hearing noise, people gathered and the accused ran away.

The initial version which is subject matter of FIR to this cross-version, by complainant Munish Kumar is that his family owns 40 acres of land in the area of village Samgoli which they cultivate and had sown wheat crop and out of which, wheat in 4 acres of land was yet to be harvested when on 21.04.2016 he along with son of his elder paternal uncle Bakhshish Singh namely Vajinder reached on their tractor-trolley with combine machine to harvest their crop. Around 9.00 a.m. they started harvesting their crop and around 9.30 a.m. one Qualis car being driven by Raman in which 9-10 youths were sitting and 8-9 other youths on three motorcycles accompanying them reached their fields, who all

were armed with Gandasis, Kirpans and Lathis and out of whom Billa, Raman, Mohinder Singh, Megh Raj, Rajpal, Pintu, Mahaveer, Rinku and Tinku along with 6-7 other unknown youths who were carrying Gandasis, Lathis and Kirpans raised *lalkara* that they be caught and finished off. The complainant alleged that in spite of their requests not to do so, the mob attacked them and seeing which, Gulab Singh father of the present complainant along with his younger paternal uncle Jasveer Singh, Charan Singh, their children Udey Partap Singh, Vishav Partap and Tarun Kumar rushed to rescue the complainant at which Billa accused who was armed with Gandasi, with an intention to kill gave a blow on the head of Munish Kumar hitting near the right ear on which he fell down and while he was lying, accused Raman gave a blow of his Gandasi towards his chest hitting on the right biceps. Accused Pintu gave two blows of Lathi and the complainant raised his hand to save himself hitting back of both of his hands. While others attacked the family of the complainant causing them grievous injuries and when they raised noise, people gathered and the accused ran away from the spot. Present complainant claims that they had sown wheat crop in the fields in question regarding which they had earlier lodged two criminal cases against the other party.

In this occurrence, complainant Munish Kumar received 5 injuries, Gulab Singh 5 injuries, Jasveer Singh 4 injuries, Charan Singh 4 injuries, Vishav Partap Singh 5 injuries, Tarun Kumar 1 injury and Udey Partap Singh 3 injuries, leading to registration of case under Sections

302, 307, 325, 324, 323, 148, 149, 201 IPC. It is worthwhile to mention here that as per the stand of the two sides, accused Inderjit Singh @ Tinku has been found innocent whereas accused Mohinder Singh is reported to have died.

In his lengthy arguments, it has been contended by Dr.Anmol Rattan Sidhu, Senior Advocate assisted by Mr. Pratham Sethi, Advocate representing the petitioners that challan has already been presented and that the petitioners namely Vishav Partap Singh @ Tillu and Jasvir Singh @ Jasbir Singh had appeared before the trial Court and that the land as per Annexure P9 is in possession of the petitioners and has placed on record copy of khasra girdawari to this effect and has sought to hammer home the point that from the petitioners side there are seven injured persons and being a case of version and cross-version and even earlier prior thereto in view of the fact that two criminal cases have been lodged against the present complainant by the petitioners side and that in the civil suit the decision has ultimately gone in favour of the petitioners and the petitioners being not the initial aggressors, the other party cannot seek the right of private defence and there is no fire arm injury to the complainant side whereas the deceased has died after more than one month due to meningitis and thus, prayed for grant of the relief as prayed for in the respective bail applications.

Learned State counsel Mr. Ajay Pal Singh Gill, Deputy Advocate General, Punjab assisted by Mr. Harpreet Singh Brar, Advocate

representing the complainant has argued that the alleged place of occurrence is a joint khata and that the petitioners in connivance with the investigating agency has tried to intimidate the evidence and there is no document as to legal possession in favour of the petitioners and that there are innumerable injuries to all resulting in death of the deceased and in view of the seriousness of allegations and heinousness of the offence has shown apprehension that if allowed bail the petitioners would not allow the complainant side to testify and has placed on record photographs of the occurrence in respect of the injured.

Going through the arguments of the contesting sides, it is by no means a matter of disaccord that the parties have a long history of dispute inter-se over this property leading to multiple litigations, civil as well as criminal. The occurrence by the two sides is well admitted in their stands taken before this Court. The factum as to who is in legal and legitimate possession and as to the actual place of occurrence, nothing has been substantiated from the records. Furthermore, the relative versions of the two sides by way of version and cross-version bear out that both sides armed with deadly weapons including firearms in large numbers have gathered at the spot, is in itself reflective of the pre-meeting of minds and determination of the two sides to take law in their hands. Together with the fact that the injuries on the person of injured namely Chaman Parkash, Sandeep Kumar, Rinku and Mohinder Singh reflect that most of the injuries especially that of firearm, are aimed

towards the head and upper part of the bodies, further corroborates what was at the back of the mind of assailants. The injuries of the petitioner side on the person of Uday Partap, Jasveer Singh, Gulab Singh, Charan Singh, Munish Kumar, Tarun Kumar and Vishav Partap Singh as is contended by learned State counsel, are mostly simple in nature that too by blunt means and which is further corroborative from the records of the Court. The question as to which of the parties is the aggressor is an intricate one which can only be adjudicated through evidence and rather to the mind of this Court what comes up is that there has been previous preparation much prior to the occurrence for a motivated cause and none of the petitioners can hide under the subterfuge of the other party being the aggressor as number of firearm injuries on the side of the complainant are reflective to this effect. More so, in the light of history of the dispute inter-se the two sides, this Court is satisfied that if the petitioners are released on bail there is every likelihood of endangering public peace and tranquility and there could be occasions for more bloodshed and which needs to be taken care of besides the fact as has been sought to be put forth with much vehemence by Mr. Harpreet Singh Brar representing the complainant that there is likelihood of the witnesses of being intimidated as parties and the witnesses belong to the same very area, together with the fact that provisions of Section 438 Cr.P.C. are to be sparingly used in the rarest of the rare cases. In view of the seriousness of allegations and heinousness of the offence, none of the petitioners is entitled to any

relief. In the light of the same, anticipatory bail applications bearing CRM-M Nos.39617, 42540, 43241 and 46044 of 2016 as well as regular bail applications bearing CRM-M No.41848 of 2016 and CRM-M No.252 of 2017 are hereby declined and dismissed. Records be sent back.

(FATEH DEEP SINGH)
JUDGE

November 9, 2017
rps

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No