

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

**Crl. Misc. No.M-4399 of 2017 (O&M)
Date of Decision: July 31, 2017.**

Charan Dass Handa

.....PETITIONER(s).

VERSUS

Central Bureau of Investigation

.....RESPONDENT(s).

CORAM:- HON'BLE MR. JUSTICE SURINDER GUPTA

Present: Mr. SPS Sidhu, Advocate
for the petitioner (s).

Mr. S.S. Sandhu, Advocate
for respondent-CBI.

SURINDER GUPTA, J.(Oral)

The present petition has been filed under Section 439 Code of Criminal Procedure for grant of regular bail to the petitioner in case No.RC-07(S)/2014/CBI/SCB/CHG dated 29.08.2014 registered for the offences punishable under Sections 302, 307 read with Section 34 of Indian Penal Code and Sections 25, 27 Arms Act, 1959, at Police Station CBI/SCB/Chandigarh (earlier FIR No.248 dated 01.12.2010 under Sections 302/34 IPC and 25, 27 of Arms Act, 1959 was registered at Police Station City Ferozepur).

Learned counsel for the petitioner has argued that the petitioner has been attributed only *Lalkara* at the time of occurrence and he was not armed with any weapon. On police investigation, he was found innocent.

The shot which resulted in death of complainant Kulwant Singh, was fired by Kuku Pardhan. The land dispute of complainant was with Kuku Pardhan and not with the petitioner, who is more than 70 years of age.

Learned counsel for CBI argues that the petitioner was earlier declared proclaimed offender by the Court vide order dated 10.05.2011. After the case was entrusted to CBI by the Court, he was arrested in June, 2015. During this period, he had been creating evidence to plead alibi. Four marlas of land was purchased in the name of *Bhabhi* of petitioner, as such, he had motive to participate in the occurrence and kill the complainant.

FIR in this case was registered on the statement of Kulwant Singh (since deceased), which has been reproduced in para 1 of the petition and reads as follows:-

“Statement of Kulwant Singh Mago son of Hira Singh Mago r/o Gali Telu Mal, Ferozepur City, aged about 46 years.

Stated that I am resident of above mentioned address and at present, I am M.C. of Ward No.4. Today, at about 4.30 p.m., I was standing outside gate of my house. My son Inderjit and Rajesh Kumar son of Mahesh Kumar and Babu s/o Gidha were also standing with me and then from the side of Wan market, Charan Das Handa, Jatinder Mohan Kuku Pardhan and Sita Tarewalia, who was armed with a revolver came there and as soon as they came, they started abusing me in the name of daughters/sisters. I said come Pardhan Ji what is the matter but Charan Das Handa raised a *lalkara* that we are telling you what is the matter and raised a *lalkara* that Pardhan what are you seeing. On this Sita Tarewalia

pushed me and Kuku Parshad fired upon me twice from the revolver in his hand which hit me on my left arm and right side of the chest. I fell down. They ran away from the spot after firing at me. Motive behind the dispute is that out of 84 marlas of land adjoining to my house, persons of Kuku Pardhan purchased 36 marlas but they were trying to take possession over the whole land. I was supporting the other party, due to which they fired at me with an intention to kill me. Sd/- Kulwant Singh.”

Petitioner is in custody for a period of more than two years and admittedly, he is about 74 years of age. Learned counsel representing CBI has stated that his year of birth is 1943. As per the prosecution case, the complainant was shot by Kuku Pardhan twice and after the incident, he along with his co-accused Surjeet Singh fled away on a motorcycle leaving Charan Dass Handa on the spot who fled from there on foot. Even at the time of incident, petitioner was more than 65 years of age. He has been attributed *Lalkara* and was not armed with any weapon at the time of occurrence. The trial of the case is pending. Prosecution has examined 13 out of 56 witnesses so far.

Keeping in view the facts and circumstances discussed above, age of petitioner and that conclusion of trial will take considerably long time, this petition is allowed. Petitioner Charan Dass Handa is ordered to be released on regular bail on furnishing bail bond and surety bond to the satisfaction of concerned Chief Judicial Magistrate/Duty Magistrate, subject to following terms:-

- a. The petitioner shall comply with the conditions mentioned in Section 437(3) Cr.P.C.
- b. In the event of his absence on any date of hearing, the benefit

of bail allowed to the petitioner shall stand withdrawn. The trial Court shall be competent to cancel his bail bond and surety bond and proceed to procure his presence in accordance with law. In that eventuality the petitioner shall have to apply for bail afresh.

- c. He shall not leave the country without the prior permission of the Court.

(SURINDER GUPTA)
JUDGE

July 31, 2017
Sachin M.

Whether speaking/reasoned: ***Yes/No***

Whether Reportable: ***Yes/No***