

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

**Crl. Misc. No.M-6445 of 2017 (O&M)
Date of Decision: December 11, 2017.**

Kulbir Singh

.....PETITIONER(s).

VERSUS

State of Punjab

.....RESPONDENT(s).

CORAM:- HON'BLE MR. JUSTICE SURINDER GUPTA

Present: Mr. A.D.S. Sukhija, Advocate
for the petitioner (s).

Ms. Seena Mand, DAG, Punjab.

Mr. A.K. Spehia, Advocate
for complainant.

SURINDER GUPTA, J.(Oral)

CRM-38034-2017

This is application to place on record copy of statement of
Jeewan Kaler PW1 as Annexure P-7.

The application is allowed subject to all just exceptions.

CRM-M-6445-2017

The present petition has been filed under Section 439 Code of
Criminal Procedure for grant of regular bail to the petitioner in case FIR No.
205 dated 05.11.2015 registered for the offences punishable under Sections
302, 307, 326, 323, 324, 148 read with Section 149 and 120-B of Indian
Penal Code and 25, 27 Arms Act, at Police Station Sadar Jalandhar.

Heard.

FIR in this case was registered on statement of Lachhman Dass, wherein he has stated that on the day of occurrence i.e. 05.11.2015 in between 5.00 p.m. to 5.15 p.m., his brother Harbilas and Shingar Chand were milking the cattle at the well, when Resham Chand, Pal Ram and Mohinder Pal sons of Buja Ram, Thakur Dass son of Banta Ram came to the well in three vehicles accompanied by Kulbir Singh (petitioner), Hari Ram @ Bishan Dass, Manohar Singh and some unidentified persons. Harbilas made a phone call to the complainant informing him that some persons had come to the well and abusing them, at which complainant sent his sons Naresh Kumar and Jiwan Kumar to the spot. He also reached there in 10 minutes and found that aforesaid persons were quarreling with nephew and son of the complainant. When the complainant intervened, they started having quarrel with him. Petitioner fired a shot at Shingar Chand with revolver. When the complainant intervened, an unidentified person armed with kirpan gave its blow cutting his left upper arm and another blow on the right upper arm and third blow on the chest. Complainant has alleged that it was a planned attack on them in which Shingar Chand lost his life. The motive of the occurrence was that the complainant party was cultivating the land of assailants on lease and after harvesting the paddy crop, they had vacated the land. The occurrence was also witnessed by Sandeep Kaler daughter of Shingar Chand and she had videographed the occurrence. The complainant was taken to civil hospital, Phagwara, where his above statement was recorded.

Learned counsel for the petitioner has argued that the revolver from which the shot was fired, belong to Manohar Singh. It was recovered

from Manohar Singh and petitioner has been falsely implicated. He has also referred to the statement of PW1 Jeewan Kaler (Annexure P-7), wherein he has deposed about video film of the occurrence, wherein any shot showing Kulbir Singh shooting his father was not found. He further submits that in fact, complainant party had tried to snatch revolver of Manohar Singh, who threw the same towards complainant and the shot was fired accidentally. Petitioner is in custody for the last more than two years and prosecution has not been able to conclude the trial so far. Keeping in view the above facts and circumstances, he has requested for grant of regular bail to the petitioner.

Learned State counsel assisted by learned counsel for the complainant has argued that petitioner was got extradited from USA as there were 19 criminal cases registered against him including 13 murder cases. At this stage, learned counsel for the petitioner submits that permission to extradite petitioner was given only for three criminal cases registered against him in which he had faced the trial and acquitted.

Learned State counsel submits that as per evidence on record and statement of prosecution witness Satnam Singh, petitioner was hired as a contract killer to kill Shingar Chand. Though the petitioner has vacated the land after harvesting the paddy crop, the petitioner wanted to take possession of the land forcibly and have come to the spot armed with deadly weapons.

It is case where the petitioner is named in the FIR. Videography of the occurrence was also done by a girl, which shows his presence and role in the occurrence. Though it was not a professional video recording yet

gives a glimpse about the occurrence and the manner it took place. Prosecution witnesses have also deposed against him and have stated that the shot was fired by Kulbir Singh. Pistol belongs to Manohar Singh and in case, complainant had to falsely implicate, Manohar Singh could be named and attributed gun shot injury to Shingar Chand. Mere fact that in the video film, there is no clear frame of the person who fired from the revolver, is no reason to disbelieve the statement of complainant and other prosecution witnesses. It has been stated that 11 out of 35 prosecution witnesses have already been examined. On perusal of the statement of PW1 Jeewan Kaler, I find that learned defence counsel had taken about six months to conclude cross-examination of PW1. It has been submitted that examination-in-chief of prosecution witness Satnam Singh has also been recorded but his cross-examination is yet to be concluded. It appears that defence is taking its own time to cross-examine the prosecution witnesses.

Keeping in view the above facts, I am of the considered opinion that grant of bail to the petitioner at this stage will allow him opportunity to prevail upon the witnesses and to tamper with the prosecution evidence.

There is no merits in this petition. Dismissed.

(SURINDER GUPTA)
JUDGE

December 11, 2017
Sachin M.

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

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