

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

1. CRM-M-16097-2018

Sukhchain Singh

....Petitioner

Versus

State of Punjab

....Respondent

2. CRM-M-7342-2018

Navpreet Singh @ Novi

....Petitioner

Versus

State of Punjab

....Respondent

Date of decision:21.11.2018

CORAM : HON'BLE MR.JUSTICE GURVINDER SINGH GILL

Present: Mr. Mandeep Kaushik, Advocate
for the petitioner (In both cases).

Ms. Simranjeet Kaur, AAG, Punjab.

GURVINDER SINGH GILL, J. (ORAL)

This order shall dispose of aforesaid two applications filed on behalf of petitioners-Sukhchain Singh and Navpreet Singh @ Novi seeking grant of regular bail in FIR No.23 dated 20.02.2016 under Sections 302, 307, 120-B of Indian Penal Code, 1860 registered at Police Station Sadar Ludhiana, District Ludhiana.

The FIR was registered at the instance of Harpal Singh wherein it has been alleged that on 20.02.2016 his nephew Rajwinder Singh who is friend of Maninderjit Singh @ Mani had gone for attending a marriage at a marriage palace in village Gill, Ludhiana. When his nephew came out of the marriage palace to see off his friends, who had come to attend marriage, then suddenly Davinder Singh @ Shooter @ Davinder Bambiha, Avtar Singh @ Tari along with 5/6 other boys came there and started firing at his nephew and his companion Buta Singh and that after firing several shots they ran away from the spot along with their respective weapons. Rajwinder Singh and Balwinder Singh @ Boota were immediately taken to hospital where Rajwinder Singh succumbed to his injuries. It is alleged that there was some previous enmity inasmuch as Dharminder Singh and Kala Hawas had fired shot at the younger nephew of the complainant i.e. at Sandeep Singh, in which, Chhinda Sangowal had died and his younger nephew was pursuing said case and the accused in the said case namely Dharminder Singh was stopping his nephew for pursuing his case and was extending threats to kill him. It is further alleged that a few days ago his nephew Ravi @ Rajwinder Singh had told that Dharminder Singh @ Gugni, Karamvir Singh, Jassi, Navpreet Singh, Mandeep Singh @ Bawa have been repeatedly extending threats to him to the effect that they had to take revenge for pursuing the murder case of Kala Hawas.

Learned counsel for the petitioners has submitted that as far as petitioner Sukhchain Singh is concerned he is not named in the FIR and he sought to be implicated on the basis of supplementary statement

recorded on 04.05.2016 i.e. after about three months of the occurrence wherein the complainant has alleged that Sukhchain Singh had conducted 'Recce'/survey of the spot of incident and had identified his nephew Rajwinder Singh in the marriage palace and had thus connived with the remaining co-accused for the murder of his nephew. Learned counsel has submitted that aforesaid supplementary statement is nothing but after-thought so as to implicate petitioner-Sukhchain Singh.

As regards petitioner-Navpreet Singh @ Novi, it has been submitted that although he has been named in the FIR but the only role attributed to him is that he has allegedly extended threats to deceased few days back to the effect that they had to take revenge on account of the fact that complainant's brother was pursuing the murder case against Kala Hawas.

On the other hand learned State counsel has submitted that the manner in which the deceased had been murdered clearly shows that it is not a handiwork of 2/3 persons but a large number of persons had been involved. Since the petitioner-Navpreet Singh @ Novi is specifically named in the FIR and also that the accused did have a motive since Rajwinder Singh was pursuing case against accused party in respect of earlier murder case, therefore, it cannot be said that the accused have been falsely implicated. Learned State counsel has submitted that the mere fact that the petitioner Sukhchain Singh came to be named in the FIR on the basis of supplementary statement cannot weaken the case of prosecution in any manner and has thus prayed for dismissal of the applications.

Having considered the rival submissions addressed before

this Court, although I do find that the petitioner Sukhchain Singh was not named in the FIR but Sukhchain Singh having been named subsequently cannot be interpreted to mean that under all circumstances that he has been falsely implicated. Similarly, as far as co-accused Navpreet Singh @ Novi is concerned, he is specifically named in the FIR to the effect that he had extended threats few days back.

Apart from aforesaid position, it is noticed that the trial seems to be proceeding at snail's pace inasmuch as after framing of charges not even a single PW has been examined. It has been informed that the petitioner-Sukhchain Singh has been behind bars since last 2 ½ years and petitioner Navpreet Singh @ Novi has been behind bars since last 1 ½ years. The petitioners certainly cannot be kept in detention for an indefinite period especially when there is no likelihood for conclusion of trial inasmuch as not even a single witness has been examined till date. Although the learned State counsel has submitted that the petitioner Sukhchain Singh is involved in another case under Section 323 of Indian Penal Code, 1860 and there are three other cases pending against Navpreet Singh pertaining to offences either under Sections 420 or 323 or 411 of Indian Penal Code, 1860 or under the Arms Act, but none of the said offence is pertaining to any heinous offence i.e. for murder or attempt to murder. Bearing in mind the aforesaid factual position and especially that the petitioners have been behind bars since long and that the conclusion of trial, in its normal course, is likely to take some time, in my opinion, no fruitful purpose would be served by further detaining the petitioners behind bars. Accordingly, petitioners-Sukhchain Singh and

Navpreet Singh @ Novi are ordered to be released on regular bail on their furnishing bail bonds/surety bonds to the satisfaction of learned trial Court/Duty Magistrate, Ludhiana.

It is made clear that, in case, the petitioners ever misuse the concession of bail, it shall be open to the prosecution for seek cancellation of their bail.

It is, however, clarified that none of the observations made above shall be taken to be an expression on merits of the main case.

The petitions are accepted in the above mentioned terms.

21.11.2018
Gaurav Sorot

(GURVINDER SINGH GILL)
JUDGE

Whether reasoned / speaking? **Yes / No**

Whether reportable? **Yes / No**