

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

1. CRM-M-24318-2017

Tejinder Singh @ Labhi

...Petitioner

Versus

State of Punjab

...Respondent

2. CRM-M-30244-2017

Baljinder Singh

...Petitioner

Versus

State of Punjab

...Respondent

Date of decision: 26.09.2018

CORAM:- HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present:- Mr. Jasvir Singh Dhaliwal, Advocate
for the petitioner in CRM-M-24318-2017.

Mr. Harvinder Singh Mann, Advocate
for the petitioner in CRM-30244-2017.

Mr. M. S. Nagra, AAG, Punjab.

Mr. K. S. Brar, Advocate
for the complainant.

ARVIND SINGH SANGWAN, J. (Oral)

This common order shall dispose of above noted two petitions
as they arise out of the same FIR.

These petitions have been filed under Section 439 of the Code
of Criminal Procedure for grant of regular bail to petitioners Tejinder Singh

@ Labhi and Baljinder Singh in case FIR No. 110 dated 08.12.2016, registered under Sections 302, 341, 323, 427, 148, 149 of the IPC at Police Station Sardulgarh, District Mansa. (Sections have wrongly been mentioned in the order dated 02.06.2017 passed by the Additional Sessions Judge.)

Brief facts of the FIR, recorded on the statement of complainant Balwinder Singh, are that he is having one brother Bharpoor Singh and they have a dispute over a plot with one Modan Singh and his family and earlier, there are cases registered against Modan Singh and his family over the dispute of the said plot which is in possession of the complainant. It is further stated that on 07.12.2016, his nephew Guriqbal Singh had gone to vegetable market at Sardulgarh for some personal work and on his way, accused Chamkaur Singh and Naib Singh caused injuries to Guriqbal Singh with their respective weapons. On coming to know this fact, the complainant went to Govt. Hospital where Guriqbal Singh and Bharpoor Singh had gone for treatment. At around 1:30 PM, when the complainant reached the hospital, accused Naib Singh and Chamkaur Singh armed with *Gandasi*, Modan Singh armed with *Kunda* came there. Gurwinder Kaur and her husband Baljinder Singh were already present in the hospital along with 3-4 unknown persons. On this, Baljinder Singh and his wife Gurwinder Kaur raised *lalkara* to teach the complainant's party a lesson for taking possession of the said plot. Thereafter, Chamkaur Singh gave a *Gandasi* blow to the complainant's brother Bharpoor Singh which hit on his head; Naib Singh also gave *Gandasi* blow to Bharpoor Singh which hit his chest; Modan Singh gave *Kunda* blow to Bharpoor Singh while he was lying down which hit his right hand and then Chamkaur Singh gave *Gandasi* blow to complainant's nephew which hit left side of his head. Naib Singh also gave

Gandasi blow to complainant's nephew which hit on the wrist of his left hand. Thereafter, they also caused injuries on the other parts of the body of complainant's nephew and when they raised voice, the accused persons ran away from the spot. Thereafter, the complainant admitted his brother Bharpoor Singh and nephew Guriqbal Singh in the hospital. Later on, due to serious condition, Bharpoor Singh was referred to Civil Hospital, Mansa and from there, he was referred to Govt. Hospital, Sector 32, Chandigarh, where during treatment, he died. It is also stated in the FIR that Bharpoor Singh died due to injuries caused by Naib Singh, Chamkaur Singh, Modan Singh, Baljinder Singh and Gurwinder Kaur along with 3-4 unknown persons.

Learned counsel for the petitioner Tejinder Singh @ Labhi has argued that the petitioner was not named in the FIR and he was implicated in the FIR on the disclosure of other co-accused that he was also amongst other 3-4 unknown persons. Learned counsel for the petitioner has further argued that the petitioner is in judicial custody since 24.12.2016 and no recovery has been effected from him and he has been implicated due to enmity and only on the suspicion. Learned counsel for the petitioner has further argued that till date, only the examination-in-chief of Guriqbal Singh has been recorded and thereafter, an application under Section 319 Cr.P.C. has been moved for summoning the other persons as accused who were found innocent during police investigation. It is further submitted that trial is moving at a very slow pace and there is no direct evidence against petitioner Tejinder Singh @ Labhi.

Learned counsel for petitioner Baljinder Singh has argued that there is CCTV footage of the hospital to show that in fact the complainant

party arrived at the hospital armed with their respective weapons and the accused persons acted in their self defence and in that process, Bharpoor Singh suffered injuries and later on died.

Learned counsel for petitioner Baljinder Singh has further argued that attribution to the petitioner is that he raised *lalkara* and no other overt act is attributed to him. Learned counsel for the petitioner has further submitted that petitioner Baljinder Singh is in judicial custody since 13.03.2017 and on an earlier occasion, the mother of co-accused Chamkaur Singh, who was the wife of co-accused Naib Singh, had committed suicide and an FIR No. 113 dated 30.07.2017 was registered against the complainant party under Section 306 IPC at Police Station Sardulgarh and due to enmity, the complainant party, being the aggressor, have caused the injuries to accused persons as is evident from the CCTV footage.

In reply, learned State counsel, on instructions from ASI Mukhtiar Singh, assisted by learned counsel for the complainant, has opposed the prayer of the petitioners.

Learned State counsel has submitted that the presence of petitioner Baljinder Singh, even as per their own case, is proved at the spot and his active participation in committing the offence, in which Bharpoor Singh has died, is apparent even on a bare perusal of the FIR. Learned State counsel has further submitted that the name of petitioner Tejinder Singh @ Labhi surfaced after the statement of witness was recorded.

It is further submitted by learned State counsel that in the statement of PW-1 Guriqbal Singh, he has supported the prosecution version and thereafter, an application has been moved under Section 319 Cr.P.C. for summoning the additional accused.

Learned counsel for the complainant has submitted that the defence taken by the petitioner Baljinder Singh regarding CCTV footage can only be considered after the evidence is led and there are direct allegations against petitioner Baljinder Singh.

After hearing learned counsel for the parties, I find no ground to grant regular bail to petitioner Baljinder Singh considering the role attributed to him as per the FIR as well as the fact that injured/complainant Guriqbal Singh has supported the prosecution version while recording his examination-in-chief. The appreciation of CCTV footage is a subject matter of evidence which can be looked into during the course of trial.

Therefore, petition bearing **CRM-M-30244-2017** is **dismissed**.

So far petitioner Tejinder Singh @ Labhi is concerned, he was not named in the FIR and his name surfaced subsequently during investigation and even as per FIR, no overt act is attributed to him. He is in custody since 24.12.2016.

Therefore, considering the fact the case is still at the stage of recording evidence and petitioner Tejinder Singh @ Labhi has undergone substantive custody, petition bearing CRM-M-24318-2017 is allowed and petitioner Tejinder Singh @ Labhi is ordered to be released on regular bail on his furnishing bail/surety bonds to the satisfaction of the trial Court/Illaq Magistrate concerned.

September 26, 2018

Waseem Ansari

(ARVIND SINGH SANGWAN)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No