

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

CRM-M-26615-2018 (O&M)

Jagtar Singh and another ... Petitioners
Versus
State of Punjab ... Respondent

CRM-M-34028-2018 (O&M)

Nirmaljit Singh Randhawa ... Petitioners
Versus
State of Punjab ... Respondent

Date of Decision:- 28.8.2018

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present:- Mr. Bipan Ghai, Senior Advocate with
Mr. Deepanshu Mehta, for the petitioner(s).

Mr. A.S.Sandhu, Addl. A.G., Punjab.

Mr. Rajiv Malhotra, Advocate for the complainant.

GURVINDER SINGH GILL, J.

This order shall dispose of above mentioned two bail applications filed on behalf of the petitioners namely Jagtar Singh, Shamsher Singh and Nirmaljit Singh Randhawa.

The petitioners seek grant of anticipatory bail in respect of a case registered against them vide FIR No.13 dated 6.2.2018, under Sections 302, 427, 148 and 149 of IPC, Police Station Dera Baba Nanak, District Gurdaspur.

Mr. Rajiv Malhotra, Advocate has appeared on behalf of the complainant and filed power of attorney. The same is taken on record.

The FIR was registered at the instance of Baghail Singh wherein it is alleged that on the day of occurrence when he along with Sukhjit Singh was present in his fields, then his brother Subeg Singh and Sanjeev Kumar were coming to Dera Baba Nanak from the side of village Fatehgarh Churian on a scooter. It is alleged that when they reached near their fields, two 'Bolero' vehicles came there belonging to excise contractor. The 'Bolero' vehicle of coca-cola colour was driven by Billa and Nirmal Singh Randhawa, excise contractor was sitting by his side on front seat while Jagtar Singh, Aman and Sarjit Singh were sitting on the rear seat of the said vehicle. It is further alleged that another four workers of the contractor were sitting in the 'Bolero' vehicle which was following the coca-cola coloured 'Bolero'. It is alleged that Nirmal Singh Randhawa who was sitting on the front seat of the 'Bolero' vehicle raised *lalkara* exhorting his accompanying that the deceased should not be spared as they were causing hindrance in sale of their liquor and that thereafter the 'Bolero' vehicle in the front, with an intention to kill the occupants of scooter hit against the said scooter as a result of which Subeg Singh and Sanjeev Kumar fell on the road and sustained multiple injuries. It is further alleged that when Subeg Singh tried to get up, the driver of the said 'Bolero' vehicle reversed the vehicle and hit against Subeg Singh due to which both of them died at the spot.

Notice of these petitions was issued to the respondent. Learned State counsel has opposed the present petition.

It has been submitted by learned counsel for the petitioners that FIR was got lodged belatedly after about six hours of the occurrence and that the complainant who is brother of one of the deceased namely Subeg

Singh was nowhere in the hospital and that neither the deceased were taken to hospital by him nor were identified as would be evident from perusal of the post mortem reports. Learned counsel has further submitted that in the post mortem report it is recorded that the cause of death is road side accident.

On the other hand learned State counsel assisted by learned counsel for the complainant has submitted that in fact all the occupants of both the 'Bolero' vehicles shared a common object to kill the deceased on account of business rivalry as both of them are contractors.

I have considered the aforesaid submissions.

As far as the case of petitioners Jagtar Singh and Shamsher Singh (referred to as 'Surjit Singh' in FIR) is concerned, they were sitting on the rear seat of the 'Bolero' vehicle. It would certainly be debatable as to whether they shared any intention or common object so as to cause death of the deceased. In any case nothing is to be recovered from them. As such, in my opinion, it is not a case where their custodial interrogation is warranted. The petition is as such accepted on their behalf and interim directions issued vide order dated 22.6.2018 are made absolute subject to the condition that the petitioners Jagtar Singh and Shamsher Singh (referred to as 'Surjit Singh' in FIR) would appear before the Investigating Officer as and when directed and also before the learned trial Court regularly and abide by any other condition as may be imposed by the learned trial Court.

The petition on behalf of Jagtar Singh and Shamsher Singh is accepted in the above mentioned terms.

As far as the case of petitioner Nirmaljit Singh Randhawa is concerned, it is the specific case of the complainant that he was sitting in the front seat of coca-cola coloured 'Bolero' and that it was the petitioner Nirmaljit Singh Randhawa who had raised lalkara exhorting his companion that the deceased should not be spared as they were causing hindrance in their liquor trade and that it was thereafter that the co-accused Billa, driver of 'Bolero' hit against the scooter of the deceased and thereafter reversed the vehicle and again hit Subegh Singh due to which Subegh Singh as well as Sanjeev Kumar died. Thus, the complicity of Nirmal Singh Randhawa is very much evident. In these circumstances, I do not find any special case for grant of anticipatory bail to Nirmaljit Singh Randhawa and the petition on his behalf is hereby dismissed.

August 28, 2018
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(Gurvinder Singh Gill)
Judge

Whether speaking /reasoned	Yes / No
Whether Reportable	Yes / No