

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-41137-2019 (O&M)

Date of Decision :30.10.2019

Bakshish Singh

....Petitioner

Versus

State of Punjab

...Respondents

CORAM : HON'BLE MR.JUSTICE ANIL KSHETARPAL

Present : Dr. Anmol Rattan Sidhu, Sr. Advocate with
Mr. Pratham Sethi, Advocate for the petitioner

Mr. S.P.S.Tinna, Addl. AG, Punjab

Mr. Vikramjeet Singh, Advocate for
Mr. Manoj Pundir, Advocate for complainant

ANIL KSHETARPAL, J.

This is second bail application filed by the petitioner in cross case vide DDR No. 40 dated 22.4.2016 in FIR No.81 dated 21.4.2016 registered under Sections 307, 323, 324, 148, 149 IPC (Sections 302, 325, 201 IPC added lateron) at Police Station Dera Bassi, District SAS Nagar, Mohali for grant of concession of regular bail.

First application was dismissed by a coordinate Bench vide order dated 9.11.2017 while deciding the prayer for bail of as many as 9 accused. At the outset it must be noticed that the petitioner, an under-trial, is in custody since 9.11.2017. The facts of the case as noticed by the coordinate Bench while passing detailed order are extracted as under:-

“The allegations against the petitioners

levelled by Raman Kumar resident of village Samgoli,

Tehsil Dera Bassi lodged before Sub Inspector Kuldip Chand in brief were to the effect that they were having ancestral land over which they had a dispute with Charan Singh and others and the civil litigation went up to the Hon'ble Apex Court. He alleged that on 21.04.2016 around 9.30 a.m. When the complainant Raman Kumar along with his younger paternal uncle (chacha) Megh Raj, father Mohinder Singh, elder paternal uncle (taya) Rajpal, brother Sandeep Kumar @ Pintu, Chaman Parkash @ Billa and Rinku were sitting in their fields, the present petitioners/accused side comprising of Gulab Singh, Charan Singh, Munish, Vijender (nonapplicant), Abhay Partap, Tarun Partap, Bakhshish Singh, all armed with guns, along with Ajay Partap Singh, Paramjit Singh (non-applicant), Srivastava property dealer armed with Kirpans and Tillu @ Vishav Partap armed with Gandasi, Jasbir Singh armed with Kulhari, all co-villagers of the complainant side along with 60-70 other unidentified persons armed with Kirpans, Gandasis, Kulharis and Lathis, trespassed into their land with a harvest combine to harvest the standing wheat crop. It is alleged that Charan Singh accused petitioner gave a lalkara that today they will give them the entire land and thereafter from his gun Charan Singh gave a fire with an intention to kill which sneaked past left arm of the complainant at which Gulab Singh fired

from his gun towards Megh Raj which sneaked near his ear while Vijender (non-applicant) and Tarun Partap gave fires towards Megh Raj hitting him on the upper and lower left arm as well as chest followed by fire of gun by Bakhshish Singh hitting Megh Raj on the stomach and Vijender Singh gave a fire on the right leg of Megh Raj. It is further alleged that Ajay Partap who was armed with Kirpan hit a blow on the right side of head of Chaman Parkash with an intention to kill, whereas accused petitioner Tillu alias Vishav Partap gave a Gandasi blow on Sandeep Kumar who in order to save himself raised his right hand hitting right thumb. Abhay Partap gave a Gandasi blow on Sandeep Kumar whereas accused Paramjit Singh gave a blow on the right side of head of Rinku by means of Kirpan. The complainant has further stated that Bakhshish Singh again fired from his gun hitting right arm of complainant Raman Kumar. Jasbir Singh gave 2-3 Kulhari blows on the head of Mohinder Singh hitting on right side of his head, right eye and temple followed by a blow by accused Tillu @ Vishav Partap by means of Gandasi hitting Mohinder Singh on the head and thereafter the accused Srivastava gave a blow of his Kirpan hitting on the head of Rajpal followed by a fire by Tarun Partap by means of his gun hitting Rinku on the lower right arm and in this melee the complainant claims that their side was severely beaten up

by the accused party and on hearing noise, people gathered and the accused ran away.

The initial version which is subject matter of FIR to this cross-version, by complainant Munish Kumar is that his family owns 40 acres of land in the area of village Samgoli which they cultivate and had sown wheat crop and out of which, wheat in 4 acres of land was yet to be harvested when on 21.04.2016 he along with son of his elder paternal uncle Bakhshish Singh namely Vajinder reached on their tractor-trolley with combine machine to harvest their crop. Around 9.00 a.m. They started harvesting their crop and around 9.30 a.m. one Qualis car being driven by Raman in which 9-10 youths were sitting and 8-9 other youths on three motorcycles accompanying them reached their fields, who all were armed with Gandasis, Kirpans and Lathis and out of whom Billa, Raman, Mohinder Singh, Megh Raj, Rajpal, Pintu, Mahaveer, Rinku and Tinku along with 6-7 other unknown youths who were carrying Gandasis, Lathis and Kirpans raised lalkara that they be caught and finished off. The complainant alleged that in spite of their requests not to do so, the mob attacked them and seeing which, Gulab Singh father of the present complainant along with his younger paternal uncle Jasveer Singh, Charan Singh, their children Udey Partap Singh, Vishav Partap and Tarun Kumar rushed to rescue the

complainant at which Billa accused who was armed with Gandasi, with an intention to kill gave a blow on the head of Munish Kumar hitting near the right ear on which he fell down and while he was lying, accused Raman gave a blow of his Gandasi towards his chest hitting on the right biceps. Accused Pintu gave two blows of Lathi and the complainant raised his hand to save himself hitting back of both of his hands. While others attacked the family of the complainant causing them grievous injuries and when they raised noise, people gathered and the accused ran away from the spot. Present complainant claims that they had sown wheat crop in the fields in question regarding which they had earlier lodged two criminal cases against the other party.

In this occurrence, complainant Munish Kumar received 5 injuries, Gulab Singh 5 injuries, Jasveer Singh 4 injuries, Charan Singh 4 injuries, Vishav Partap Singh 5 injuries, Tarun Kumar 1 injury and Udey Partap Singh 3 injuries, leading to registration of case under Sections 302, 307, 325, 324, 323, 148, 149, 201 IPC. It is worthwhile to mention here that as per the stand of the two sides, accused Inderjit Singh @ Tinku has been found innocent whereas accused Mohinder Singh is reported to have died.

It may be noted there that first application was filed by the

petitioner for grant of bail along with various other co-accused. In fact, the

Coordinate Bench was hearing certain applications for pre-arrest bail and regular bail of the petitioner along with certain co-accused. The Coordinate Bench dismissed the application on the ground that there is a history of inter-se dispute between two sides and there is every likelihood of endangering public peace and tranquility and there could be occasions for more bloodshed.

Keeping in view the aforesaid facts, this Court has considered it appropriate to entertain the second application. As per FIR, petitioner-Bakshish Singh was armed with a gun and had fired a shot which hit upon the stomach of Megh Raj. Bakshish Singh had also used his gun twice thereafter; one had hit right arm of the first informant i.e Raman Kumar s/o Mohinder Singh and another on the right arm of Sandeep Kumar. Learned senior counsel while referring to the documents available on the file submitted that there are no fire arm injuries on the stomach of Megh Raj-injured or on the right hand of first informant- Raman Kumar-injured or on the right hand of Sandeep Kumar-injured. He further submitted that as per final report, opposite party was the aggressor party and there are injuries caused to the members of both the parties. He further submits that petitioner is in custody for more than 3 years. He also relies upon order dated 3.10.2019 passed in the case of co-accused i.e CRM-M-36357 of 2019.

On the other hand, learned State counsel assisted by learned counsel for first informant have opposed the present petition on the ground that first petition has already been dismissed.

Four co-accused of the petitioner have already been granted concession of regular bail. First order in this regard was passed in the month

2019 and last order was passed in October, 2019. There are no allegations that there has been any disturbance in the public peace after release of four co-accused.

The conclusion of trial is likely to take time. Keeping in view the aforesaid facts, this court is of the considered view that petitioner-Bakshish Singh deserves to be released on regular bail, at this stage.

Hence, petition allowed.

Petitioner-Bakshish Singh be released on bail subject to furnishing adequate personal bail/surety bonds to the satisfaction of the concerned Chief Judicial Magistrate/Duty Magistrate.

(ANIL KSHETARPAL)
JUDGE

30.10.2019

rekha

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No