

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

Date of Decision : August 19th, 2020

1. CRM-M-11839- 2020

Jatinder Pal Singh @ Sunny PETITIONER(S)

VERSUS

State of Punjab RESPONDENT(S)

2. CRM-M-778- 2020

Vishal PETITIONER(S)

VERSUS

State of Punjab RESPONDENT(S)

CORAM : HON'BLE MR. JUSTICE SANJAY KUMAR

Present: Mr. Sunil Chadha, Senior Advocate, with
Ms. Swati Verma and Mr. Lakshay Bector,
Advocates, for the petitioner in
CRM-M-11839-2020.

Mr. Yogesh Goel, Advocate, for the petitioner in
CRM-M-778-2020.

Mr. H.S. Sullar, Deputy Advocate General, Punjab.

Mr. Suneet Pal Singh Aulakh, Advocate, for the complainant.

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Sanjay Kumar, J.

Jagdeep Singh @ Rinkle, a young man still in the first flush of

YOUTH died at a hospital in Ludhiana on 19.07.2018. His death was due to

the shock and haemorrhage caused by multiple *ante mortem* injuries which were sufficient in the ordinary course of nature to cause death.

Initially, FIR No.118 dated 19.07.2018 was registered under Sections 307, 452, 148 and 149 IPC on the file of Police Station Division No. 2, Ludhiana, in relation to the attack upon Rinkle. Sections 302 and 120-B IPC were added therein on 20.07.2018, after his death.

Jatinder Pal Singh @ Sunny, the petitioner in CRM-M-11839-2020, was shown as the named accused in the FIR along with eight unknown accused. Thereafter, the police included the names of the other accused persons and one amongst them was Vishal, the petitioner in CRM-M-778-2020. Jatinder Pal Singh was arrested on 22.07.2018 while Vishal was arrested on 05.09.2018. By way of the present petitions, both of them seek regular bail.

These bail petitions were filed by Vishal and Jatinder Pal Singh on 08.01.2020 and 18.03.2020 respectively. On 04.02.2020, during the hearing of CRM-M-778-2020 filed by Vishal, Mr. Suneet Pal Singh Aulakh, learned counsel, appeared on behalf of Gagandeep Singh, the complainant. The learned State counsel was directed to file a detailed reply, giving the stage of the trial, along with a copy of the challan and the statements of witnesses recorded during the investigation. The reply filed by the State along with supporting material was taken on record on 16.03.2020. CRM-M-11839-2020, the bail petition filed by Jatinder Pal Singh, could not be taken up for hearing due to intervention of the Covid-19 pandemic and the consequential lockdown in March, 2020.

Thereupon, he filed an application in CRM-10544-2020 seeking interim

bail pending disposal of the main bail petition. This interim bail application was taken up for hearing on 15.05.2020 and it was adjourned to 28.05.2020 with the direction that the main case should also be fixed for hearing on that date. The State counsel was asked to seek instructions in the matter so that the case could be taken up for final disposal on that date. On 28.05.2020, this Court opined that the statement of Neelam Kaur, who was stated to be unrelated to the victim's family and was cited as a prosecution witness, would be material for deciding the bail petition. As the next date for the prosecution's evidence before the trial Court was fixed on 02.07.2020, this Court directed the matter to be listed for consideration on 06.07.2020 along with the connected CRM-M-778-2020, the bail petition filed by Vishal. The trial Court was directed to record the deposition of Neelam Kaur on the date fixed and the prosecution was asked to ensure her attendance on that date. On 06.07.2020, Neelam Kaur's two statements, recorded under Section 161 Cr.P.C., and her deposition before the trial Court on 2nd and 3rd July, 2020, were taken on record. This Court noticed that a site plan was sought to be relied upon by the petitioners but as the same was not an authenticated document, it was opined that the same could not be treated as automatically admissible in evidence. Thereupon, the learned counsel appearing for the petitioners sought time to come up with an authentic/admissible site map. The matter was accordingly adjourned to 17.07.2020. On that day, an authenticated map was sought to be placed on record by way of an application but as Mr. Suneet Pal Singh Aulakh, learned counsel, stated that he had not been furnished the same copy that was placed before the Court, the matter was

adjourned to enable service of an identical copy of the site map upon the learned counsel. On 27.07.2020, this Court found that no reply had been filed by the complainant though he had filed an implead application and accordingly adjourned the matter to enable him to do so. The reply of the complainant was thereafter filed along with supporting documents. Arguments were then heard at length and in consequence, the cases are amenable to final disposal at this stage.

FIR No.118 dated 19.07.2018 was registered upon the statement made at the hospital by Gagandeep Singh @ Mani Khera, the step-brother of Rinkle. Therein, he stated to the following effect: His younger brother, Rinkle, and their mother, Parminder Kaur, resided separately in rented accommodation at H.No.1636, Mohalla Amarpura. On 19.07.2018 at about 11.00 AM, he and his wife had gone to meet Rinkle at his house. At that time, Rinkle was sleeping. He woke him up and after talking to him, he went to the doctor for taking medicine. After that, his mother also left the house. After taking medicine, he went to the house of Jota, a friend of Rinkle, and then he received a phone call at about 12.30 PM from a neighbour of his mother that some persons were beating up his brother, Rinkle. He immediately rushed to his brother's house on a motorcycle and saw that 7-8 boys, armed with iron rods, baseball bats and datar (sickles), were present in the house of Rinkle. The elder son of Neetu, Councillor, namely Jatinder Pal Singh, was ahead of them all. He did not know the names of the others but he could identify them if they were brought before him. He saw them running from the spot. When he went inside the house, he saw that his brother, Rinkle, was lying

on the earth in the courtyard in an injured condition. He called his known people over the phone and with their help, he took his brother, Rinkle, in an auto and got him admitted in CMC Hospital, Ludhiana, where he was under treatment. The motive behind the occurrence was that a quarrel had taken place during the last Municipal Corporation election and due to that grudge, Jatinder Pal Singh, in connivance with his companions, inflicted injuries upon his brother, Rinkle, after trespassing into his house with the intention of killing him. Legal action be taken against them.

The doctor at the hospital informed the police that Rinkle was unfit to make a statement. This statement was recorded at 06.15 PM.

Though the FIR reflects that information was given at 18:30 hours on 19.07.2018, it also records that the incident occurred between 11:00 hours and 12:30 hours on that day.

A supplementary statement was made by Gagandeep Singh, the complainant, on 19.07.2018. Therein, he stated that he had gotten recorded his earlier statement which led to registration of FIR No.118 dated 19.07.2018 and that, apart from the statement made at that time, he wanted to make an additional statement. He stated that when he reached the place of occurrence and the accused were about to leave, after causing injuries to his brother, then Jatinder Pal Singh, son of Gurdeep Singh @ Neetu, raised a lalkara (challenge) and, while twirling his moustache, he said that his father was the present Councillor and had instructed him to return home only after killing Rinkle and that he would manage each and everything. Jatinder Pal Singh said that they were going back after killing Rinkle and that the complainant could do whatever he wanted. They also

threatened him that if he dared to take any action then he would also have to face similar consequences. Whatever was happening with them was being got done by Gurdeep Singh @ Neetu, Councillor, and he had hatched this conspiracy. Even earlier, they had a threat to their lives and CRM-M-18727 was filed before the High Court by Parminder Kaur.

Rinkle expired at about 8.00 PM on 19.07.2018. The time at which the aforestated supplementary statement was recorded is not discernible but, presumably, it was before Rinkle died, as there was no mention therein of his passing away.

Gagandeep Singh then made another supplementary statement on 21.07.2018. Therein, he stated that he had made a statement on 19.07.2018 and gotten the FIR registered and again, he got recorded his supplementary statement and got arrayed Gurdeep Singh @ Neetu, Councillor, as an accused in the FIR. He then stated that during the incident, Jatinder Pal Singh was having a baseball bat in his hand. He further stated that on that day he had come to know about the names and addresses of all the accused. He then proceeded to name each of the unknown accused along with their residential addresses and also the weapon that each was armed with. Vishal was stated to have been armed with a baseball bat. Gagandeep Singh went on to state that all these named persons, in connivance with each other, had caused injuries to his brother, Rinkle, on 19.07.2018 and had murdered him.

This supplementary statement also does not indicate the time at which it was recorded. The complainant did not indicate therein the source of his information, whereby he not only identified the nine

unknown accused by their names and furnished their residential addresses but also named the specific weapons that they were carrying individually.

It may be noted at this stage that the special report in relation to FIR No.118 dated 19.07.2018 was received by the jurisdictional Judicial Magistrate First Class only at 10.15 AM on 20.07.2018, long after its registration at 6.30 PM on the previous day. However, both sides rely upon this delay to buttress their respective claims. The said delay may therefore not have any definitive value at this stage for deciding these bail petitions.

Though Gagandeep Singh, the complainant, made no mention of any other person witnessing the incident, Kamalpreet Kaur, the sister of the complainant and Rinkle, came forward with the claim that she had witnessed the attack upon her brother. She made a statement on 21.07.2018. Therein, she stated that on 19.07.2018, between 10.00 AM and 11.00 AM, she went to meet Rinkle at his house and her other brother, Gagandeep Singh, also came there with his wife. At that time, Rinkle was sleeping. After talking for a while, Gagandeep Singh went to the doctor for taking medicine. Their mother also left the house to take medicine. She was talking to Rinkle and at about 12-12.15 PM, Jatinder Pal Singh, elder son of Councillor Neetu, who was armed with a sickle (datar), along with 7-8 other boys, including Karan and Sandy, who were armed with rods and baseball bats, forcibly entered the house and started causing injuries to her brother, Rinkle. She further stated that when she raised an alarm, they threatened her that she would also get the same treatment. According to her, while beating Rinkle, they dragged him out of the room

to the courtyard and she fell unconscious inside the room upon witnessing the incident. She further stated that one person, by name, Amarjeet Singh, was standing in the street at that time. Later on, when she regained her senses, she came to know that her other brother, Gagandeep, had taken Rinkle to the hospital. She claimed that she gave this statement to the police earlier but had come to know that the police had not attached the statement and she was therefore sending a copy of her statement to the police and other authorities.

Her statement was then separately recorded by Harpal Singh, Inspector Incharge, Crime Branch-I Commissionerate, Ludhiana, on the same day, viz., 21.07.2018. The only major difference therein was that she stated that Jatinder Pal Singh was armed with a baseball bat. Further, the later portion of her earlier statement to the effect that the police had not attached her statement and that she had sent the same to the police and other authorities did not find mention in this later statement.

The statement of Amarjeet Singh, who was mentioned by Kamalpreet Kaur, is also of relevance. Be it noted that he is the father of Jota, the friend of Rinkle, whom Gagandeep Singh, the complainant, visited on the fateful day. In his statement, Amarjeet Singh said that his house was situated near the house of Rinkle and on 19.07.2018 at about 12-12.15 PM, he was passing by the said house and in the meantime, Jatinder Pal Singh, the elder son of Neetu, Councillor, having a baseball bat in his hand, along with 7-8 other boys, who were having rods and baseball bats, went into the house of Rinkle and started causing injuries to Rinkle who was in a room. He further stated that Rinkle's sister,

Kamalpreet Kaur, was also present in the room but when she came forward to rescue him, they threatened her stating that they would kill her. Due to this reason, she fell unconscious. Then, he and another person informed Gagandeep Singh, the brother of Rinkle, who immediately reached there and in his presence, Jatinder Pal Singh and his 7-8 companions ran away from the spot. He further stated that while running away, Jatinder Pal Singh raised a lalkara, while twirling his moustache, that his father was a Councillor and had told him to come home only after killing Rinkle and he would manage the rest himself. Jatinder Pal Singh said that they had done the act and you may do whatever you like. While leaving the spot, they also gave a threat to the brother of Rinkle. He concluded by stating that we then took Rinkle to the hospital where he died.

Though no reply was filed by the State in the bail petition filed by Jatinder Pal Singh, a detailed reply, along with several enclosures, was filed by Waryam Singh, Assistant Commissioner of Police (Central), Ludhiana, in the bail petition filed by Vishal. Therein, he set out the facts as culled out from the statements of the complainant and the other witnesses and stated that after completion of investigation, the final report was filed against Vishal and four other accused on 15.10.2018 in the Court of the learned Illaqa Magistrate, Ludhiana. Another final report was stated to have been submitted on 29.01.2019 against Manmeet Singh@ Sahil. Thereupon, charges were framed against Jatinder Pal Singh, Vishal and four accused on 24.01.2020. The case was stated to be pending before the learned Additional Sessions Judge, Ludhiana. He

further stated that three of the accused were declared proclaimed offenders by the learned Illaqa Magistrate, Ludhiana, on 05.03.2019 and 10.05.2019 and their supplementary challans were also submitted. Details were given as to the recoveries effected during the course of the investigation and it was stated that the accused had caused multiple injuries to the deceased. Reference was made to the MLR which evidenced that 16 injuries were found on the body of the deceased, of which four were grievous. He was stated to have also suffered multiple fractures. During the course of the post-mortem examination, it was found that 22 injuries had been sustained by the deceased. Details were furnished of how some of the accused came to Hotel Sunder Classic on 18.07.2018 at about 6.30 PM and procured a room on rent. Vishal was stated to be one amongst them. The call details were stated to indicate exchange of mobile phone calls between Jatinder Pal Singh and the other accused. Vishal was stated to have made a disclosure statement voluntarily, on the basis of which the baseball bat that he was armed with during the attack was recovered. The Assistant Commissioner accordingly prayed for dismissal of the bail petition.

The facts bear out that the first challan was filed on 15.10.2018 against five of the accused, including Jatinder Pal Singh and Vishal. The second challan was filed on 29.01.2019 against another accused, viz., Manmeet Singh @ Sahil. Thereafter, supplementary challans dated 18.04.2019 and 14.05.2019 were also filed. Charges were framed against the petitioners in these two cases and four other accused on 24.01.2020 under Sections 302, 452 and 120-B IPC. Three of the accused were declared proclaimed offenders while three other persons

implicated in the offence, including Gurdeep Singh @ Neetu, were found to be innocent.

Pursuant to the order of this Court, Neelam Kaur was examined as PW-1 by the learned Additional Sessions Judge, Ludhiana. Her examination-in-chief and cross-examination stretched over two days, viz., 02.07.2020 and 03.07.2020. Neelam Kaur also got recorded her statement under Section 161 Cr.P.C, which was marked as Ex.DB, and her later statement recorded by the police was marked as Ex.DA.

As per Ex.DB statement recorded on 21.07.2018, Neelam Kaur stated that her daughter, Gurpreet Kaur, lived opposite the house of Gurdeep Singh @ Neetu, Councillor of Congress Party; that she had come to meet her daughter on 19.07.2018 and at about 12-12.15 PM, when she was standing outside the house, Jatinder Pal Singh, son of Neetu, who was armed with a sickle (daat), and 7-8 more boys who were aged about 20-25 years, of whom two were Sikhs and the remaining were clean-shaven, hurriedly came out of the house of Neetu, Councillor; that she could identify them if she came across them; that Neetu told them to finish Rinkle that day as he had uploaded a video on Facebook after removing the turban of Jatinder Pal Singh and left them with no respect; that Neetu said that he would take care of the whole matter with the police; that upon his saying this, Jatinder Pal Singh and the 7-8 persons accompanying him immediately left from there; that after 20-25 minutes, when her daughter came out in the street and they were chatting, Jatinder Pal Singh along with his companions rushed inside his house and after sometime, they fled with Neetu in his red coloured car; and that she came to know thereafter

that Jatinder Pal Singh and others had inflicted injuries upon Rinkle. She said that she told the same to the police, but they did not take any action.

In Ex.DA statement, which was also recorded on 21.07.2018, Neelam Kaur stated that she resided at Door No.21/4, Mohalla Islam Ganj, Ludhiana, while her daughter, Gurpreet Kaur, was residing in front of the house of Gurdeep Singh @ Neetu, who was the Councillor of Congress party. She said that she had come to meet her daughter on 19.07.2018 and at about 12-12.15 PM, when she was standing out of the house, then Jatinder Pal Singh, armed with a baseball bat, came out of the house of Neetu along with 7-8 boys, who were around 20-25 years of age. Out of them, two boys were Sikhs while the others were clean-shaven. She said that she could identify them in case they were brought before her. According to her, they all came out of the house hurriedly and Neetu told them to close the chapter of Rinkle that day as he had removed the turban of Jatinder Pal Singh and had uploaded a video on Facebook, leaving them unable to live, and that he would manage the entire matter with the police. She further stated that Jatinder Pal Singh and his 7-8 companions hurriedly left that place and after about 20-25 minutes, when her daughter came into the street and they were talking with each other, then Jatinder Pal Singh along with his companions went inside their house hurriedly and after sometime, they ran away from the house along with Neetu in their red coloured car.

Significantly, the only difference between Ex.DB statement and Ex.DA statement, both recorded on the same day, is that Jatinder Pal Singh was stated to have been armed with a sickle (daat) in the earlier

statement but the same was changed thereafter and he was stated to have been armed with a baseball bat in the later statement.

Before the learned Additional Sessions Judge, Neelam Kaur stated as follows in her examination-in-chief on 02.07.2020: She had two children, namely Gurpreet Kaur and Parminder Singh. Gurpreet Kaur was married to Damanpreet Singh, who was residing at Amarpura in Ludhiana, opposite the house of Gurdeep Singh Neetu, Councillor. She had gone to the house of her daughter, Gurpreet Kaur, on 19.07.2018 and at about 12.00-12.15 noon, she was present in front of the house of Gurdeep Singh Neetu. About 7-8 persons along with weapons came out of the house of Gurdeep Singh Neetu. Of them, two were Sikh gentlemen and the others were clean-shaven. Jatinder Pal Singh, son of Gurdeep Singh Neetu, was known to her and he also came out. The other 6-7 persons were not known to her. Jatinder Pal Singh was armed with a baseball (*sic*) bat. Gurdeep Singh told them that Rinkle had removed the turban of his son, Jatinder Pal Singh, and posted the video clipping of the incident on social media and as such, he had insulted them. He further stated to eliminate Rinkle as he had lowered their reputation. The 7-8 persons left the place thereafter. After 20-25 minutes, they again came back. They all entered into the house of Gurdeep Singh Neetu and then left the house of Gurdeep Singh Neetu in a red coloured car along with Gurdeep Singh Neetu. Her statement was recorded by the Investigating Officer. She could identify Jatinder Pal Singh and also the other accused persons on VC facility. (It appears that an objection was raised with regard to identification of the accused persons through a video conference and the learned Additional

Sessions Judge directed production of the accused in Court for identification purposes.)

On 03.07.2020, Neelam Kaur stated that she identified all the accused present in Court. She also stated that the red car which was shown in the photographs, Exs.P-1 to P-4, marked subject to objections, was the same car used by the accused.

In her cross-examination, she stated that she got her statement recorded under Section 161 Cr.P.C. to the effect that Jatinder Pal Singh was the son of Gurdeep Singh Neetu and was known to her. However, when her attention was drawn to her Ex.DA statement, she admitted that it was not so recorded therein. She said that she signed only in Punjabi and identified her signature on Ex.DB statement. She acknowledged that the said statement was got typed and was signed by her. She stated that she did not specifically mention therein that Jatinder Pal Singh was armed with a daat. She was thereupon confronted with the portion of Ex.DB statement, wherein it was so recorded. She stated that Ex.DB statement was got typed by her after 2.00 PM on 21.07.2018. Ex.DA statement was got recorded after Ex.DB statement, but she could not tell the specific time. She stated that Ex.DA statement was also got typed by her. She denied that Ex.DA statement was fabricated to suit the medical evidence in the case. She again stated that in Ex.DB statement, she had mentioned that Jatinder Pal Singh, son of Gurdeep Singh Neetu, was known to her. She was confronted with the said statement, wherein it was not so recorded. She stated that she had only one son and his name was Parwinder Singh. She admitted that she got her son's name recorded as

Parminder Singh on the earlier day but denied that she had done so intentionally and with an ulterior motive. She stated that the nickname of her son was Shinky and that he was also known as Sinky. She admitted that her son along with Ankit @ Gurpreet Singh, Rinkle @ Jagdeep Singh and Jota @ Ramanjot Singh, son of Amarjeet Singh, filed a petition before the High Court to quash FIR No.108 dated 06.05.2017 registered under Sections 307, 323, 324, 341, 427, 148 and 149, IPC, on the file of Police Station Division No.2, Ludhiana, on the basis of a compromise. She volunteered that the said dispute was amongst close relations; that Rinkle @ Jagdeep Singh was one of the accused in the said FIR; and that he was the deceased in this case. She stated that she did not know whether Amarjeet Singh, father of Jota @ Ramanjot Singh, was a prosecution witness in this case. She stated that the FIR was quashed by the High Court. She admitted that video footage of the occurrence in FIR No.108 dated 06.05.2017 became viral in the social media and that it was made viral by Jatinder Pal Singh, the accused in this case. She stated that she could not tell the exact distance between her house and the house of her daughter. She volunteered that she could not go there on foot. She admitted that she was handicapped and that her left leg was a wooden one, as her own leg had been amputated. She stated that she felt less difficulty in standing and denied that she felt great difficulty in doing so. She stated that she did not know the house number of her daughter's house but admitted that her daughter's father-in-law was the owner of the house. She said that she could not say whether the house number of her daughter's house was 1611, Amarpura, Ludhiana. She said that she could not tell

whether the house number of Gurdeep Singh Neetu was 2072. She said that the house of Gurdeep Singh Neetu was situated beyond the street after two small houses. She stated that she could not tell the exact distance between both the houses. She admitted that both the houses were not opposite each other. She said that she could not say whether the distance between the two houses was 300 feet. She denied the suggestion that the houses were situated in different streets. She denied the suggestion that the house shown in red colour in the site plan Mark DA belonged to the father-in-law of her daughter but admitted that the house shown in yellow colour therein belonged to Gurdeep Singh Neetu. She said that she could not say from Mark DA where the house of her daughter was situated. She admitted that on one side of her daughter's house was the house of Khanna Cable TV. She said that she could not say whether the house number of Khanna Cable TV was 1612. She admitted that there was a common boundary wall between the houses of her daughter and Khanna Cable TV. She said that she could not identify the house of Khanna Cable TV in the site plan Mark DA. She denied the suggestion that the deceased, Rinkle, was a close friend of her son and asserted that he was not having visiting terms with them. She said that she did not know whether her son and the deceased, Rinkle, used to move together outside the house. She however conceded that her son and Rinkle were seen hugging each other in the photograph, Exhibit DC, marked subject to objection. She also identified her son with Rinkle in the photographs, Exhibits DE and DF, and several other photographs, marked subject to objections. She however denied the suggestion that Rinkle was a close friend of her son or that he

was close to her. She also denied the suggestion that her family and the family of Rinkle were having relations. (At this stage, Neelam Kaur requested that she may be granted some rest as she could not stand for such a long time. She further stated that she had been standing for 1 hour 15 minutes. Her request was accordingly accepted and the proceedings started after 10 minutes). She then stated that on 19.07.2018 at about 12.00-12.15 noon, she reached opposite the house of Gurdeep Singh Neetu. She stated that she got recorded in her statement that at about 12-12.15 noon on 19.07.2018, she reached opposite the house of Gurdeep Singh Neetu. She was confronted with Ex.DA statement, wherein it was not so recorded. She then volunteered that in her statement, only the word 'house' was mentioned but there was no mention that she was standing outside/opposite the house of Gurdeep Singh Neetu. She denied the suggestion that the deceased, Rinkle, had never removed the turban of Jatinder Pal Singh and that it was not put up on Facebook. She denied the suggestion that she had concocted a false story and that her son and she were annoyed with Jatinder Pal Singh for making viral the video of the occurrence relating to FIR No.108 of 2017. She denied the suggestion that their relations with Jatinder Pal Singh were strained. She stated that she had never mentioned the number of the red coloured car in her statement recorded under Section 161 Cr.P.C. She stated that she got recorded in Ex.DB statement that she was present outside/opposite the house of Gurdeep Singh Neetu. She was confronted with Ex.DB statement, wherein it was not so recorded. She thereupon volunteered that in the statement, Exhibit DB, only the word 'house' was mentioned but there was no

mention that she was standing opposite the house of Gurdeep Singh Neetu. She stated that her daughter and her husband were employed at Baba Than Singh Chowk in some Survey Company but denied the suggestion that her daughter had gone to her work place on the morning of 19.07.2018 or that she had returned from her work place in the evening of that day. She denied the suggestion that she had never visited the house of her daughter on that day and had neither seen nor heard anything. She admitted that 19.07.2018 was a very sunny day but denied the suggestion that she would have been unable to stand in such hot and humid conditions. She stated that she had neither mentioned the make of the red coloured car in her statement nor could she mention it that day. She admitted that Gurmeet Singh @ Raju was residing in the area where she was residing and that it was correct that he had contested the Municipal Corporation election in February, 2018. She admitted that Gurdeep Singh Neetu had won the said election but denied the suggestion that she and her son had supported Gurmeet Singh @ Raju. She denied the suggestion that due to political and personal reasons she and her son were inimical towards Jatinder Pal Singh and his father. She stated that she did not know that Gurdeep Singh Neetu and his son, Jatinder Pal Singh, were found innocent by the police. She denied the suggestion that as per the mobile location, Jatinder Pal Singh was at his office situated opposite the Civil Hospital, Ludhiana. She admitted that the office of Jatinder Pal Singh was situated opposite the Civil Hospital, Ludhiana. She stated that she did not know whether CCTV cameras were installed in his office but denied the suggestion that as per the CCTV camera footage, Jatinder Pal Singh was

in his office at the time of the occurrence. She said that she did not know whether CCTV footage and mobile phone tower location and call records were handed over to the police during the inquiry proceedings. She said that she got recorded in Exs.DB and DA statements that she could identify the car. She was confronted with the said statements, wherein it was not so recorded. She stated that the colour of the car was however mentioned. She admitted that she did not get recorded the names of the 7-8 boys in both the statements. She volunteered that she had mentioned only the name of Jatinder Pal Singh in both the statements. She admitted that she had not got recorded in both the statements, the height, colour, build or identifying features of the 7-8 boys. She said that she identified them for the first time in Court on that day and volunteered that she had seen them at the time of the occurrence also. She admitted that the police had not done any Test Identification Parade in this case but asserted that she identified the accused who were present in Court, who had been produced by the police. She denied the suggestion that she had deposed falsely.

The testimony of Neelam Kaur has been set out at length owing to the earlier order passed by this Court attaching a lot of importance to it, obviously under the impression that she was an unconnected witness. However, it emerges from her deposition in clear and certain terms that she is not an independent and impartial witness. Her son seems to have been an associate, if not a close friend, of Rinkle and that apart, there was animosity between her and Jatinder Pal Singh and his family owing to past incidents. In the light of the contradictions and inconsistencies in her deposition, it would be utterly unwise for this

Court to unequivocally accept her story. That being said, the changing stances on her part are of relevance and shall be discussed hereinafter.

One other pertinent fact may be noted. An authenticated site map was filed by Ms. Swati Verma and Lakshay Bector, learned counsel, pursuant to the permission granted by this Court to do so. This site map was furnished by the Assistant Town Planner, Zone-B, Municipal Corporation, Ludhiana. This site map was not part of the record before the trial Court during the examination of Neelam Kaur, but as this Court specifically permitted it to be produced and there is no rebuttal from the other side as to the veracity of its contents, the same can be relied upon. As per this site map, the distance between the house of Gurpreet Kaur, the daughter of Neelam Kaur, and the house of Gurdeep Singh @ Neetu is shown to be over 120 feet. Further, there is no open space between the two houses as there are houses constructed between them and a narrow pathway of 5' 6" is adjacent to those houses. More importantly, there is no clear and unobstructed view between the two houses. In effect, Neelam Kaur, if she was standing outside the house of her daughter, would not have been able to see what was going on at the house of Gurdeep Singh @ Neetu.

Before embarking upon a further enquiry on facts, it would be apposite to adumbrate the legal principles applicable to grant of bail.

The matters to be considered in an application for bail are:

- (i) whether there is any *prima facie* or reasonable ground to believe that the accused had committed the offence; (ii) the nature and gravity of the charge; (iii) the severity of the punishment, in the event of conviction; (iv)

the danger of the accused absconding or fleeing, if released on bail; (v) the character, behaviour, means, position and standing of the accused; (vi) the likelihood of the offence being repeated; (vii) reasonable apprehension of the witnesses being tampered with; and (viii) the danger of justice being thwarted by grant of bail [See **Prahlad Singh Bhati vs. NCT, Delhi [(2001) 4 SCC 280]** and **Gurcharan Singh vs. State (Delhi Administration) [(1978) 1 SCC 118]**].

In **Prahlad Singh Bhati** (*supra*), the Supreme Court also pointed out that for the purpose of granting bail, the Legislature had used the words ‘reasonable grounds for believing’ instead of ‘the evidence’, which would mean that the Court dealing with the grant of bail can only satisfy itself as to whether there is a genuine case against the accused and whether the prosecution would be able to produce *prima facie* evidence in support of the charges. The Court is not expected, at this stage, to have the evidence establishing the guilt of the accused beyond reasonable doubt. The Supreme Court also observed that if a person was suspected of committing an offence punishable with death or imprisonment for life, then there must exist grounds which specifically negate the existence of reasonable grounds for believing that the accused is guilty of such offence. It was further observed that the jurisdiction to grant bail must be exercised on the basis of well settled principles, having regard to the circumstances of each case and the Court must keep in mind the nature of the accusations; the nature of evidence in support thereof; the severity of the punishment which conviction would entail; the character, behaviour, means and standing of the accused; the circumstances which are peculiar

to the accused; and the reasonable apprehension of witnesses being tampered with.

In **Kalyan Chandra Sarkar vs. Rajesh Ranjan [(2004) 7 SCC 528]**, the Supreme Court held that the Court should exercise its discretion in a judicious manner while considering a bail application and not as a matter of course. It was further observed that, though a detailed examination of the evidence and elaborate documentation of the merits of the case need not be undertaken at the stage of granting bail, there was a need to indicate in such orders, the reasons for *prima facie* concluding as to why bail should be granted, particularly where the accused was charged with having committed a serious offence.

In **Sanjay Chandra vs. Central Bureau of Investigation [(2012) 1 SCC 40]**, the Supreme Court observed that the object of bail is to secure the appearance of the accused person at the trial by fixing a reasonable amount of security and it is neither punitive nor preventative. The Supreme Court further observed that Courts owe more than verbal respect to the principle that punishment begins after conviction and that every man is deemed to be innocent until duly tried and duly found guilty. It was further observed that detention in custody pending completion of the trial could be a cause of great hardship though necessity may demand that some unconvicted persons should be held in custody, pending trial, to secure their attendance at the trial but in such cases, ‘necessity’ is the operative test. It was pointed out that in India, it would be quite contrary to the concept of personal liberty enshrined in the Constitution that any person should be punished in respect of any matter for which he has not

been convicted or that he should be deprived of his liberty, only upon the belief that he would tamper with the witnesses if left at liberty, save in the most extraordinary circumstances. It was further held that imprisonment before conviction has a substantial punitive content and it would be improper for any Court to refuse bail as a mark of disapproval of former conduct, whether the accused has been convicted for it or not, or to refuse bail to an unconvicted person for the purpose of giving him a taste of imprisonment as a lesson. The Supreme Court pointed out that the provisions of the Cr.P.C. confer discretionary jurisdiction and the same has to be exercised with great care and caution, by balancing the valuable right of liberty of an individual and the interest of society in general. The Supreme Court affirmed the principle that grant of bail is the rule and committal to jail is the exception. It was pointed out that if there is delay in the trial, bail should be granted to the accused. On facts, the Supreme Court found that in that case there were 17 accused persons; the statements of witnesses ran to several hundred pages; the trial would take considerable time; and the accused would have to remain in jail for an indefinite period. The Supreme Court accordingly held them entitled to relief, duly taking note of the fact that the investigation had already been completed and the charge sheet had also been filed.

In **Siddharam Satlingappa Mhetre vs. State of Maharashtra [(2011) 1 SCC 694]**, the Supreme Court observed that personal liberty is a precious fundamental right and it should be curtailed only when it becomes imperative according to the peculiar facts and circumstances of the case. Having said so, the Supreme Court observed

that just as liberty is precious to an individual, so is society's interest in maintenance of peace, law and order and that both are equally important.

In **State of U.P. vs. Amarmani Tripathi [(2005) 8 SCC 21]**, the Supreme Court observed that while a detailed examination of the evidence is to be avoided while considering the question of bail, to ensure that there is no prejudging and no prejudice, a brief examination is necessary to be satisfied about existence or otherwise of a *prima facie* case.

Ordinarily, where there is delay in the trial, bail should be granted to the accused (see **Babba alias Shankar Raghuman Rohida vs. State of Maharashtra [(2005) 11 SCC 569]**, **Vivek Kumar vs. State of U.P. [(2000) 9 SCC 443]** and **Mahesh Kumar Bhawsinghka vs State Of Delhi [(2000) 9 SCC 383]**).

It is in the backdrop of the aforestated legal principles that the entitlement of the petitioners to seek bail at this stage would have to be examined and decided.

So far as Jatinder Pal Singh is concerned, it may be noted that the steadfast allegation against him, in terms of the versions put forth by the complainant and the crucial witnesses, is that he was personally involved in the attack upon Rinkle. Their ambiguity as to whether he was armed with a sickle or a baseball bat aside, he is alleged to have physically participated in the fatal attack upon Rinkle. It is in the context of this allegation that the *prima facie* case against him would have to be examined for the purpose of deciding his bail petition.

Mr. Suneet Pal Singh Aulakh, learned counsel, would

however contend that a criminal conspiracy was hatched to do away with Rinkle and contract-killers were brought to Ludhiana to carry out the job. He would contend that there is material evidence to show that these contract-killers, including Vishal, were brought by Jatinder Pal Singh and his henchmen and were provided accommodation in a hotel at Ludhiana. Learned counsel would therefore contend that Jatinder Pal Singh would not be entitled to seek bail on this ground also.

No doubt, a charge of criminal conspiracy has been framed against the petitioners and the other accused but the evidence in this regard is yet to be tested. The charge against Jatinder Pal Singh under Section 120-B IPC is yet to be established as mere exchange of mobile phone calls, if any, between him and those staying at the hotel would not be sufficient in itself to constitute *prima facie* proof of a criminal conspiracy to kill Rinkle. In any event, the case projected against Jatinder Pal Singh, independent of this criminal conspiracy, was that he was personally involved and physically participated in the fatal attack upon Rinkle. So far as that allegation is concerned, it would have to be tested in the context of the claims put forth by the complainant and the supporting witnesses.

In this regard, it may be noted that three separate statements were made by Gagandeep Singh, Rinkle's brother. In his first statement, which formed the basis for registration of the FIR, he said Jatinder Pal Singh was leading the unknown accused who were leaving the scene after the attack on Rinkle and no more. In his first supplementary statement, he stated that when he reached the place of the occurrence and the accused

were about to leave after causing injuries to his brother, then Jatinder Pal Singh raised a lalkara that his father was the present Councillor and that he had instructed him to return home only after killing Rinkle and that he would manage each and everything. The import of this statement was to implicate Gurdeep Singh @ Neetu, the father of Jatinder Pal Singh. In the second supplementary statement, he stated as much and then went on to say that Jatinder Pal Singh was having a baseball bat in his hand at that time. He also named all the accused persons along with their residential addresses and the individual weapons that each of them was carrying. No explanation was offered as to how he came upon these details of persons who were unknown to him, as per his first statement dated 19.07.2018.

That being one aspect of the matter, the lack of consistency in the stand of Neelam Kaur, as to how she came to be a crucial witness, may also be noted. In her earlier statements, Exs.DB and DA, she merely stated that she was standing outside the 'house' and it was only in her deposition before the trial Court that she stated that she was standing outside the house of Gurdeep Singh @ Neetu. This 'clarification' became necessary as she could not possibly have seen anything if she was standing outside the house of her daughter, in terms of the authenticated site map. She herself admitted in her cross-examination that the two houses were not opposite each other! However, this 'clarification' does not jell with her claim that her daughter came out and that they were chatting, when Jatinder Pal Singh and the others returned 20-25 minutes later. It is not credible that these ladies would leave their own abode and go and stand in front of the house of Gurdeep Singh @ Neetu to have a chat! More so, as Neelam

Kaur is a handicapped person with an artificial wooden leg and, admittedly, it was a very sunny day on 19.07.2018. There is no explanation forthcoming as to why Neelam Kaur would even go for a walk at noon on such a hot day; stand in front of the house of Gurdeep Singh @ Neetu; and remain standing there for a period of 20-25 minutes, whereby she could have seen the return of these persons, as claimed by her. Her story is rendered further incredible, as her relations with Gurdeep Singh @ Neetu and his family were not on an even keel. Given their admittedly hostile relationship, her claim that Gurdeep Singh @ Neetu openly instigated the accused in front of her and instructed them to eliminate Rinkle, is most unbelievable.

Mr. Suneet Pal Singh Aulakh, learned counsel, would contend that there is a CCTV camera installed outside the house of Gurdeep Singh @ Neetu and the footage thereof would demonstrate that Neelam Kaur was standing outside the said house at the relevant point of time. However, no evidence is produced in support of this claim. It is for the trial Court to test this claim/proof at the relevant stage but as on date, there is no evidence to substantiate Neelam Kaur's claim that she was standing outside the house of Gurdeep Singh @ Neetu at the relevant time.

Further, in the light of the evidence of Neelam Kaur, Amarjeet Singh, who claimed to have actually witnessed the occurrence, is clearly shown to be an interested witness. His son, Jota, a friend of Rinkle, was involved in a criminal case and the video footage relating thereto was allegedly made viral by Jatinder Pal Singh. Therefore, he

could not be expected to be unbiased towards Jatinder Pal Singh. In addition thereto, there is no explanation forthcoming as to how he witnessed the attack inside the house of Rinkle in such detail if he was just passing by the house. Significantly, he claimed that it was he who had informed Gagandeep Singh of the incident, but Gagandeep Singh himself did not say so and merely said that it was a neighbour of his mother who had informed him. Gagandeep Singh was allegedly at the house of Jota, Amarjeet Singh's son, at that point of time and would not have overlooked that fact. It is also difficult to accept that he saw the assailants enter Rinkle's house, armed with weapons, and remained a mute spectator during the attack, given the fact that his son, Jota, was a friend of Rinkle. Further, if Amarjeet Singh had seen Kamalpreet Kaur witnessing the entire incident, he would not have failed to mention it to Gagandeep Singh. However, none of Gagandeep Singh's statements even mention the presence of Kamalpreet Kaur!

Be it noted that according to Kamalpreet Kaur, she was present at Rinkle's house when Gagandeep Singh came there. If that be so, he should have been well aware of the possibility that she might have been there at the time of the attack. He however appears to have been ignorant of her very presence in Rinkle's house and made no reference to her at all. Conveniently, Kamalpreet Kaur claims that she fell unconscious in the room while Rinkle was being dragged out into the courtyard, perhaps to account for his silence to some extent.

Further, the lack of consistency in the claims of the prime witnesses as to whether Jatinder Pal Singh was armed with a sickle or a

baseball bat at the relevant time is equally damaging. Both Neelam Kaur and Kamalpreet Kaur originally claimed that he was carrying a sickle and then changed it to a baseball bat. Mr. Sunil Chada, learned senior counsel appearing for Jatinder Pal Singh, would assert that this substitution was occasioned by the fact that the medical evidence showed that the injuries sustained by Rinkle were caused by a blunt weapon and not a sharp-edged weapon. Learned senior counsel would state that the witnesses accordingly changed their versions and substituted the 'sickle' with a 'baseball bat'.

To compound matters further, it appears that a Special Investigation Team was constituted to look into the claim of the mother of Jatinder Pal Singh that he was not even present at the scene at that time as he was attending his office, which is opposite the Civil Hospital, Ludhiana, at a distance of 1-1 ½ KMs. The report submitted to the Commissioner of Police, Ludhiana, in this regard, concluded that there was sufficient material to hold that Jatinder Pal Singh was physically present at his office opposite the Civil Hospital, Ludhiana, at the relevant time. This Court is informed that this report is also under challenge by way of separate proceedings. The fact however remains that an independent agency has submitted a report to this effect and the same would carry value for the purposes of these cases.

The police seem to have given a clean chit to Gurdeep Singh @ Neetu, despite his being implicated by the complainant, but the same is of no concern to this Court in the present bail petitions.

However, Mr. Suneet Pal Singh, learned counsel, would

contend that Gurdeep Singh @ Neetu is bringing pressure to bear in favour of his son, Jatinder Pal Singh, by using his position and political influence. He would assert that Gurdeep Singh @ Neetu was invited as the Chief Guest at a function organized by the police and was also permitted to enter the jail where Jatinder Pal Singh is presently incarcerated, on the pretext of undertaking a sanitation drive in connection with the prevailing pandemic. However, the affidavit and status report filed by the authorities concerned show that both these contentions are without merit. It appears that not only Gurdeep Singh @ Neetu but also Gagandeep Singh, the complainant, participated in the 550th Birth Anniversary celebrations of Shri Guru Nanak Devji organized at Police Station Division No.2, Ludhiana, and no one was specifically invited to this religious function. Further, investigation in relation to this case was not undertaken by the said police station but was carried out by a special investigating team headed by the Deputy Commissioner of Police (Law & Order), Ludhiana. As regards the other contention, it appears that the local MLA, along with Gurdeep Singh @ Neetu and another councillor, went to the jail with a tanker of disinfectant but left from the gate itself and none of them entered the jail premises.

On a conspectus of the facts and circumstances, as set out *supra*, this Court finds that, as on date, there is no acceptable proof of the presence and participation of Jatinder Pal Singh in the attack on Rinkle.

Insofar as Vishal, the petitioner in the other bail petition, is concerned, his name figured for the first time in the second supplementary statement of Gagandeep Singh, the complainant, but as already pointed

out earlier, there is no explanation forthcoming as to how Gagandeep Singh came upon the names and residential addresses of all the attackers, apart from identifying the weapon that each of them was carrying. Neelam Kaur identified Vishal in open Court as one of the assailants but admittedly, no Test Identification Parade was ever conducted. The consequences of such failure and the value to be attached to identification in open Court at this late stage would have to be assessed by the trial Court at the relevant time.

Further, as stated *supra*, the alleged criminal conspiracy and the hiring of contract-killers, including Vishal, is yet to be put to test before the trial Court and as matters stand, the available evidence is insufficient to infer a *prima facie* case under Section 120-B IPC.

Mr. H.S. Sullar, learned Deputy Advocate General, Punjab, would argue that the petitioners are not entitled to grant of bail, given the seriousness of the offence. No doubt, the petitioners are facing serious charges which would entail a death sentence or imprisonment for life, if they are proved guilty. However, given the totality of the obtaining facts and circumstances and the inherent inconsistencies in the case built up on the statements of the complainant and other primary witnesses, this Court is of the considered opinion that a *prima facie* case is yet to be made out against the petitioners.

Further, this Court finds no possible threat of the petitioners tampering with the evidence or witnesses at this stage. The challan has already been filed against them and, in any event, it is the case of the complainant that it is Gurdeep Singh @ Neetu, the father of Jatinder Pal

Singh, who is politically powerful and influential. Significantly, he is at liberty at the moment. Therefore, setting the petitioners free on bail pending the trial would not pose a threat to the prosecution's case.

Fifty-eight witnesses have been listed by the prosecution for examination before the trial Court and as on date, only one witness, Neelam Kaur, has been examined. It is well nigh impossible for the prosecution to complete the trial any time soon, given the present situation caused by the COVID-19 pandemic, which has impaired functioning of Courts across the country. Jatinder Pal Singh has been in custody since 22.07.2018, just over two years, while Vishal has been in custody since 05.09.2018, just short of two years. They would therefore be entitled to grant of bail pending the delayed trial, subject to conditions.

Both the bail petitions are accordingly allowed, directing the release of the petitioners on regular bail in FIR No. 118 dated 19.07.2018 on the file of Police Station Division No.2, Ludhiana, upon their furnishing personal bonds for a sum of ₹ 2 lakh each along with two sureties for a like sum each to the satisfaction of the Illaqa/Duty Magistrate concerned. The petitioners shall also deposit their original passports with the Illaqa/Duty Magistrate and undertake, by way of their bonds, that they will not leave the State of Punjab without the permission of the Court. Further, the petitioners shall desist from causing any inducement, threat or promise to any person connected with the case and shall maintain peace and good conduct.

Pending miscellaneous applications, if any, in both these bail petitions shall stand disposed of, in the light of this final order.

It is made clear that all the observations made in this order on the merits of the matter are limited to and meant only for the purposes of disposing of these bail petitions. The same shall not have any binding effect and shall not even influence or be taken into account by the trial Court, while dealing with the main case on its own merits, after completion of the trial and hearing.

August 19th , 2020
kang/preeti

(Sanjay Kumar)
Judge

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No