

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

CRM-M No.13394 of 2020
Date of decision: 9th June, 2020

Harwinder Singh

... Petitioner

Versus

State of Punjab

... Respondent

CORAM: HON'BLE MR. JUSTICE FATEH DEEP SINGH

Present: Mr. Sandeep Wadhawan, Advocates for the petitioner.
Mr. Sandeep Vermani, Addl. Advocate General, Punjab
for the respondents/State.
Mr. D.S. Sobti, Advocate for the complainant.

FATEH DEEP SINGH, J. (ORAL)

The matter has been taken up through video-conferencing on account of outbreak of pandemic COVID-19.

Petitioner, who is one of the accused in case bearing FIR No.86 dated 19.11.2019 registered at Police Station Kotali Surat Malhi, Police District Batala, District Gurdaspur under Sections 302, 506, 148, 149 IPC and Sections 25, 27 of the Arms Act has come up in this first anticipatory bail application under Section 438 Cr.P.C.

The facts brought to the notice of this Court by learned State counsel are that present case was got registered on the statement of Sandeep Singh son of deceased Dalbir Singh. His initial stand taken on 18.11.2019, the date of occurrence, was that while his father along with

his younger brother Lakhwinder Singh and the complainant were having a stroll outside their home around 8.45 p.m., accused non-applicants Balwinder Singh armed with Datar; accused Mandeep Singh, Major Singh both armed with pistols along with 4-5 unidentified persons attacked the complainant side and while doing so, were raising *lalkaras* to teach them lesson for demolition the common *Vatt*. It was alleged that Balwinder Singh gave a blow of Datar on the left hand of the deceased followed by fire from their pistols by Major Singh and Mandeep Singh and another blow of Datar on the deceased by Balwinder Singh. It was alleged that the unidentified persons also fired from their weapons and gave Sua and Datar blows on Dalbir Singh which led to the death of Dalbir Singh and thereafter on raising of *roula* the accused ran away. It is subsequently, on the next day i.e. 19.11.2019 in his supplementary statement, the complainant has stated that on account of being under shock he could not spell out the real facts. In the supplementary statement, the complainant states that there was political rivalry between the accused and the complainant side, as his father deceased Dalbir Singh belonged to Akali party and the accused side were supporters of the Congress and which was brewing during the days of election. The complainant claims that it was on account of this rivalry, the accused had earlier threatened his father with dire consequences and thereby named Balwinder Singh, Mandeep Singh, Major Singh and four-five other

unidentified persons including the present petitioner as the culprits for this murder.

Relying upon Annexure P2, statement made by SI Makhan Singh that till 10.02.2020, the petitioner was never an accused in the case nor any complaint has been filed against him, it is submitted on behalf of the petitioner that it is an afterthought fabrication wherein the petitioner has been roped in. It is claimed that nothing has been attributed to the petitioner and co-accused non-applicant Lakhwinder Singh has been allowed regular bail by the learned Sessions Judge on 07.02.2020 in spite of pistol having been recovered from him.

Learned State counsel has strongly opposed the bail on the grounds that on the next day, immediate after the occurrence, name of the petitioner has cropped up and highlighted that there were nine injuries on the dead body and that the allegations against the petitioner are of serious consequence being armed with pistol and there are four firearm injuries on the dead body and three pistols have been recovered, when the ocular evidence shows that there were four pistols with different accused, necessitates custodial interrogation of the petitioner for recovery of the weapon of offence.

Going through the submissions of the two sides, commensurate with the stand of learned State counsel, it was on the basis of the orders dated 30.03.2020 of this Court directions were issued for recording afresh the statement of the prosecution witnesses, is in itself

illustrative of the fact that all is not well with the investigations. The complainant had in his statement detailed at length the names of the accused, the weapons being wielded by them and their respective roles in commission of the offence. The petitioner has been attributed to be holding a pistol and having fired at the deceased and there are four firearm injuries on the dead body, are indicators in this direction as to the participation of the petitioner. The investigations are still at a crucial stage. There are allegations of political rivalry and therefore, to enable the investigating agency to comprehensively investigate the allegations and gather evidence as well as for recovery of the alleged weapon wielded by the petitioner, custodial interrogation of the petitioner is very much essential and allowing bail at this juncture would not be conducive for the same. More so, provisions of Section 438 Cr.P.C. are to be sparingly used. Thus, no case is made out to allow bail to the petitioner which stands declined and the present petition dismissed accordingly.

(FATEH DEEP SINGH)
JUDGE

June 9, 2020

rps

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No