

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

**CRM-M-20109-2020
Date of decision : 06.10.2020**

Balbir Singh @ Bittu Pehalwan

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present: Mr. Vipul Aggarwal, Advocate
for the petitioner.

Mr. Joginder Pal Ratra, DAG, Punjab.

ARVIND SINGH SANGWAN, J. (Oral)

This is the second petition that has been filed for grant of anticipatory bail to petitioner Balbir Singh @ Bittu Pehalwan in FIR No. 57 dated 16.04.2019, registered under Section 307, 506, 148, 149 of the IPC and Sections 25, 27 of the Arms Act, 1959 (Sections 302, 120-B of the IPC added later on) at Police Station Chheharta, District Police Commissionerate Amritsar.

The first petition filed by the petitioner, bearing **CRM-M-52928-2019**, was dismissed by this Court on 30.01.2020 by passing a detailed order along with two other petitions, filed by co-accused Ashok Kumar Ghocha @ Khocha and Sahib Singh @ Saba Dangar. The operative part of the order reads as under:

“...Counsel for the petitioner on behalf of the petitioners namely Ashok Kumar Ghocha @ Khocha and Balbir Singh @ Bittu Pehalwan, has argued that as per the allegations in the

FIR, registered on the statement of injured/deceased – Ashish @ Ashu, it is stated that on 16.04.2019, his friend Sonu had come to meet him and both of them went to play cricket in the government school of village Mahal and at about 04:00 PM, one black colour scorio car along with one white colour scorio car came there and inside the black colour scorio car, Khemi Pehalwan son of Malkiat Singh armed with pistol, Love son of Malkeet Singha armed with pistol, Pawan son of Kuldeep Singh @ Fauji armed with pistol, Tidda son of Sujreet Singh armed with pistol and Yash son of Ranjeet Singh who was empty handed, stepped out of the car and thereafter, Yash caught hold of Ashish @ Ashu and pushed him to the ground. Thereafter, Khemi Pehalwan, Love, Pawan and Tidda, all of them fired upon him with their respective pistols, which hit his legs. Again, Khemi Pehalwan fired one shot from his pistol which hit him on his buttocks, Pawan fired shot from his pistol which hit him on his waist. Thereafter, Sonu raised hue and cry, upon which the mother and sister of the victim namely Jeet Kaur and Jyoti came at the spot and all the accused ran away in their scorio car from the spot with their respective weapons.

It is further stated in the FIR that Baljinder Singh, who is brother-in-law of Balbir Singh @ Bittu Pehalwan was accompanied by 06 more unknown persons. Bittu who was on the driving seat was also accompanied by Saba Dangar, who was sitting besides him on the passenger seat. Thereafter, the victim was admitted in Guru Nanak Hospital, Amritsar for treatment and his statement was recorded. The police, after recording his statement, registered the present FIR.

Counsel for the petitioners has argued that later on, Ashish @ Ashu died due to the injuries sustained by him and Section 302 IPC was added on the subsequent statement of Jeet Kaur, mother of the deceased. It is further submitted that there are no direct allegations against the petitioners and they have been falsely nominated in the FIR. It is also submitted that in the statement of Jeet Kaur, the name of the petitioners is not mentioned.

Counsel for the petitioner – Sahib Singh @ Saba Dangar has argued that as per the FIR, the petitioner – Saba Singh @ Saba Dangar was shown to be sitting in the second scorio car and no overt act is attributed to him.

Counsel for the State, on the basis of the affidavit of the SHO, Police Station Chheharta, Amritsar has, however, opposed the submissions made by counsel for the petitioners. It is submitted in the affidavit that the FIR was initially registered on the statement of the deceased – Ashish @ Ashu and later on, during the course of investigation, the scorio car bearing No.PB05-0046 was recovered lying abandoned on 18.04.2019 and the petitioner Ashok Kumar Ghocha @ Khocha is the registered owner of the said car as per the document (Annexure R-1/T) dated 28.05.2018.

Counsel for the State has further stated that during the investigation, the statements of Jyoti, sister of the deceased who was present at the spot and Sonu, friend of the deceased who was also present at the spot, were recorded under Section 161 Cr.P.C. and both these witnesses have assigned specific role to the petitioners.

With regard to the petitioner – Ashok Kumar Ghocha @ Khocha, it is stated that he has formed a gang and the petitioner is the leader of the said gang, who operates the same along with the petitioners – Balbir Singh @ Bittu Pehalwan and Sahib Singh @ Saba Dangar. Copies of the statements are annexed with this affidavit as Annexures R2/T and R3/T.

A perusal of these statements show that both the eyewitnesses i.e. Jyoti and Sonu have named the present 03 petitioners as the persons, who are part of the gang headed by the petitioner – Ashok Kumar Ghocha @ Khocha.

It is also stated in the affidavit that the mother of the victim – Jeet Kaur, another eye-witness has also stated that his deceased son – Ashish @ Ashu had an altercation with accused Ravinder Singh @ Ladhi and his nephew Gautam and due to that enmity, they have killed her son. The statement of Jeet Kaur is also attached with the affidavit of

the SHO as Annexure R4/T wherein she has leveled the allegations regarding the motive of offence.

It is further stated in the affidavit that some of the accused stands arrested and from them four .34 bore country-made pistols/revolvers and one .315 bore weapon was recovered. It is also stated that even during the interrogation of the co-accused namely Kushlpreet Singh @ Kaimy, Vishal @ Tidda, Pawandeep Singh and Lovejeet Singh @ Love, it is found that the petitioner – Ashok Kumar Ghocha @ Khocha is the leader of the gang and the other petitioners are the members of the same, who are committing illegal act on the direction of Ashok Kumar Ghocha @ Khocha.

Counsel for the State has also submitted that one of the accused namely Yashpal, who is not arrested, is the real nephew of Ashok Kumar Ghocha @ Khocha and was working on his asking and is involved in similar other FIR i.e. FIR No.2 dated 02.01.2019 registered under Sections 452, 427, 148, 354, 506, 149 IPC at Police Station Majithia, Amritsar and the petitioner – Ashok Kumar Ghocha @ Khocha is also involved in 03 more FIRs (including FIR No.138 dated 10.05.2014 registered under Sections 307, 323, 427, 149, 326, 324, 148, 120-B, 34 IPC at Police Station Civil Lines, Amritsar), the petitioner – Balbir Singh @ Bittu Pehalwant is involved in two other FIRs i.e. FIR No.440 dated 03.09.2017 registered under Sections 323, 336, 149, 324, 148, 506 IPC and 25, 27 of the Arms Act at Police Station Civil Lines, Amritsar and FIR No.97 dated 27.11.2011 registered under Sections 379, 420, 468, 472, 411, 467, 471 IPC and 20, 21 of the NDPS Act at Police Station B Division, Amritsar whereas the petitioner – Sahib Singh @ Saba Dangar is also involved in FIR No.440 dated 03.09.2017 registered under Sections 323, 336, 149, 324, 148, 506 IPC and 25, 27 of the Arms Act at Police Station Civil Lines, Amritsar and all the petitioners are habitual offenders.

After hearing the counsel for the parties, considering the serious allegations against all the petitioners and looking into the gravity of offence committed by them, I find no

ground to grant the concession of anticipatory bail to the petitioners.

The petitions are dismissed accordingly.”

Learned counsel for the petitioner submits that petitioner is nominated in the FIR being uncle (Chacha) of the main accused, though he was not present at the spot and relies upon some photographs in this regard.

Reply, by way of affidavit of Inspector/IO/SHO of the police concerned, is filed in Court today and the same is taken on record. As per reply, the active participation of the petitioner is shown at the spot. It is further stated in reply that the FIR was registered by victim Ashish @ Ashu, who later on died during his treatment and subsequently, Section 302 IPC was added.

Learned State counsel submits that statement of three witnesses, namely Jyoti, Sonu and Jeet Kaur, who are the eyewitnesses, has been recorded (Annexures R-2/T to R-4/T) by the police. It is further submitted that Jyoti and Jeet Kaur are the sister and mother, respectively, of deceased Ashish @ Ashu and their statement is still to be recorded before the Court.

In reply, learned counsel for the petitioner relies upon an affidavit of aforesaid witness Sonu, in which he has stated that he has not seen anything.

After hearing learned counsel for the parties, I find no ground to entertain this second petition for grant of concession of anticipatory bail to petitioner.

Mere fact that one of the eyewitnesses seems to be won over by the petitioner, nowhere weakens the case of the prosecution as two other eyewitnesses, i.e. aforesaid Jyoti and Jeet Kaur, have duly supported the prosecution being eyewitnesses.

I find force in the argument raised by learned State counsel that from the date of registration of FIR till today, the petitioner has not surrendered before the Court/police and is not allowing the prosecution to complete the investigation.

Accordingly, finding no ground to grant concession of anticipatory bail to petitioner, the present petition is **dismissed**.

The Commissioner of Police, Amritsar is directed to make sure that petitioner is arrested within a period of one month from today and send a report in this regard to Registrar General of this Court. In case, petitioner is not arrested within the time stipulated, the Commissioner of Police, Amritsar shall send an explanation as to why the petitioner could not be arrested.

Report/explanation, if any, is received, the same be put up before this Court.

At this stage, learned counsel for the petitioner submits that petitioner is ready to surrender before the trial Court.

It will be open for the petitioner to surrender before the trial Court/Illaqha Magistrate.

06.10.2020

Waseem Ansari

**(ARVIND SINGH SANGWAN)
JUDGE**

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No