

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

Decided on: 30.01.2020

1. CRM-M No.48901 of 2019

Ashok Kumar Ghocha @ Khocha

....Petitioner

Versus

State of Punjab

....Respondent

2. CRM-M No.52928 of 2019

Balbir Singh @ Bittu Pehalwan

....Petitioner

Versus

State of Punjab

....Respondent

3. CRM-M No.1020 of 2020

Sahib Singh @ Saba Dangar

....Petitioner

Versus

State of Punjab

....Respondent

CORAM: HON'BLE MR JUSTICE ARVIND SINGH SANGWAN

Present : Mr. D.N. Ganeriwala, Advocate
for the petitioner(s).
(in CRM-M Nos.48901 and 52928 of 2019)

Mr. Kushagra Mahajan, Advocate
for the petitioner (in CRM-M-1020-2020)

Mr. Joginder Pal Ratra, DAG, Punjab.

ARVIND SINGH SANGWAN, J. (Oral)

Prayer in these petitions is for grant of anticipatory bail to
the petitioners namely Ashok Kumar Ghocha @ Khocha, Balbir Singh

@ Bittu Pehalwan and Sahib Singh @ Saba under Section 438 of the Code of Criminal Procedure (in short 'Cr.P.C.') in FIR No.57 dated 16.04.2019, for offence punishable under Sections 307, 302, 506, 148, 149, 120-B of the Indian Penal Code, 1860 (in short 'IPC') and 25, 27 of the Arms Act, 1959, registered at Police Station Chheharta, District Police Commissionerate, Amritsar.

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 scorpio car along with one while colour scorpio car came there and inside the black colour scorpio 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 scorpio 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 scorpio 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 scorpio 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 eye-witnesses 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.

Nothing observed herein shall be construed as an expression of opinion on merits of the case.

(ARVIND SINGH SANGWAN)
JUDGE

30.01.2020
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Whether speaking/reasoned	Yes/No
Whether reportable:	Yes/No