

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

**1. CRM-M No.7350 of 2021 (O&M)
Date of Decision: 01.03.2021**

**Paramraj Singh UmranangalPetitioner
Vs
State of PunjabRespondent**

2. CRM-M No.8125 of 2021 (O&M)

**Sumedh Singh SainiPetitioner
Vs
State of PunjabRespondent**

CORAM: *HON'BLE MR. JUSTICE RAJ MOHAN SINGH*

Present: Mr. A.P.S. Deol, Sr. Advocate with
Mr. Vishal Rattan Lamba, Advocate
for the petitioner(s).

Mr. Hareen P. Rawal, Sr. Advocate with
Mr. H.S. Grewal, Addl. A.G., Punjab and
Mr. Gaurav Garg Dhuriwala, Sr. D.A.G., Punjab.

RAJ MOHAN SINGH, J.

[1]. Vide this common order, CRM-M Nos.7350 and 8125 of 2021 are being decided. Since both the cases have arisen from common FIR, therefore, for the sake of brevity common facts are being noticed.

[2]. In the aforesaid petitions, both the petitioners seek grant of anticipatory bail under Section 438 Cr.P.C in case bearing FIR No.130 dated 21.10.2015 registered under Sections

302, 307, 341, 201, 218, 166-A, 120-B, 34, 194, 195, 109 IPC and Sections 25 & 27 of the Arms Act at Police Station Bajakhana, District Faridkot.

[3]. Petitioners have been summoned by the Judicial Magistrate Ist Class, Faridkot for 01.03.2021 on presentation of 3rd supplementary report under Section 173(8) Cr.P.C., after completion of further investigation by the Special Investigation Team (for short 'the SIT').

[4]. At the time of incident of sacrilege in District Faridkot i.e. Behbal Kalan/Bargari, the petitioner-Paramraj Singh Umranangal was posted as Commissioner of Police, Ludhiana. Violence took place at two places i.e. Kotkapura and Behbal Kalan. The incident of sacrilege took place in village Bargari. FIR No.128 was registered on 12.10.2015 under Sections 295 and 120-B IPC at Police Station Bajakhana, District Faridkot.

[5]. Due to the aforesaid incident numerous *dharnas* were made by the people at different places including Bargari and Kotkapura. On 12.10.2015, a *dharna* was made by the people at Kotkapura which was disbursed by the Police. On 13.10.2015, the *dharna* was made again at Kotkapura by the people in large numbers. Protesters were removed till morning of 14.10.2015. Due to clash, water cannon, tear gas and *lathi* charge were used including firing in the air. The use of force

was made as per the order of the District Magistrate. Some police officials were injured and there was damage to *vajra* vehicle. On 14.10.2015 an order was passed by the Sub-Divisional Magistrate, Kotkapura for use of light *lathi* charge and thereafter for use of *vajra* vehicle and tear gas. In addition to the aforesaid, use of firing in air was also ordered vide order of even date. A day earlier to that, force from other Districts was also mobilized. Commissioner of Police, Ludhiana and SSPs from other Districts like Ferozepur, Sri Muktsar Sahib, Fazilka, Mansa and Moga were also mobilized along with force from their respective units. Director General of Police at Chandigarh was in touch with the senior officers of the Police. In the clash on 14.10.2015 morning, some policemen and protesters were injured at Kotkapura. Petitioner was present at Kotkapura. After few hours, information was received in respect of clash between police party headed by Mr. Charanjit Sharma, SSP Moga and protesters at Behbal Kalan. In the said clash, two persons died. Behbal Kalan falls under the jurisdiction of Police Station Bajakhana. The SIT was constituted by the DGP, Punjab comprising of Sh. Iqbal Preet Singh Sahota, IPS, Mr. Amar Singh Chahal, IPS and Sh. R.S. Khatra, IPS for inquiring into the incident of sacrilege and firing at Behbal Kalan on 14.10.2015. The SIT recommended for registration of the present FIR i.e. FIR No.130 dated 21.10.2015.

[6]. In respect of violence at Kotkapura and Behbal Kalan, four FIRs were registered, the details of which find mentioned in the petition.

[7]. In the violence incidents at Kotkapura and Behbal Kalan, no investigation was done from October 2015 to October 2018, though the Government had appointed Hon'ble Mr. Justice Jora Singh (Retd.) as inquiry commission to inquire into the sacrilege of Shri Guru Granth Sahib Ji in District Faridkot and the firing incidents at Koktapura and Behbal Kalan on 14.10.2015.

[8]. The report of Inquiry Commission dated 29.06.2016 was found to be inconclusive. Thereafter in March, 2017 another Commission headed by Hon'ble Mr. Justice Ranjit Singh (Retd.) was appointed. The Commission gave its report on 30.06.2018. The report of the second inquiry commission was tabled in Punjab Vidhan Sabha in August 2018 with an Action Taken Report (ATR).

[9]. The recommendations of the second Inquiry Commission were accepted by the Government on 28.08.2018. The relevant part of the recommendations at page 179 of the report reads as under:-

"In its report the Commission has inquired

into the role of police at Kotkapura and Behbal Kalan and has held the police responsible for using the force at these places which was unprovoked, unwarranted, uncalled for and not needed at all. At Behbal Kalan, the police had opened fire without any warning and without taking permission from civil authorities to open fire. The Commission has named the police officials who were responsible for use of this force by police at Kotkapura and Behbal Kalan. Since two persons died at Behbal Kalan and some other persons received bullet injuries, the Commission has recommended registration of criminal cases against the police officers who have been named by the victim and are accused of firing or are accused of directing others to open fire. [illegible] Kotkapura (CW-12) has not come out with complete truth. The Commission would recommend appropriate action against CW-12 and those police officials who are not coming in the scope of any criminal act but nevertheless are seen to be responsible for police action. Number of police officers have been found liable for failing to carry out proper and fair investigations of incidents of sacrilege and in the cases which were registered regarding use of force at Kotkapura and Behbal Kalan. Their names have been disclosed in the different parts of the report while dealing with these issues. The Commission would accordingly recommend appropriate action in accordance with law against all such officials. The Commission would wish to commend the role performed by SIT headed by DIG R.S Khatra and his team which has devoted laborious efforts and has traced the cases of sacrilege detecting the persons involved in the incidents of sacrilege. Confession made

by main accused would hardly leave any doubt about the finding of the SIT, Hopefully CBI is not allowed to dilute the case in any manner.”

[10]. Perusal of the aforesaid recommendations would show that the Commission had recommended registration of criminal cases against the police officers, who have been named by the victim and were accused of firing or were accused of directing others to open fire. The Commission recommended appropriate action against the District Magistrate, Kotkapura and those police officials, who were not coming in the scope of any criminal act, but nevertheless were seen to be responsible for police action.

[11]. Learned Senior counsel for the petitioners by referring to the page nos.66, 67, 68, 88, 89, 94, 97 and 179 of the report of second Inquiry Commission submitted that petitioner-Paramraj Singh Umranangal was not present at Behbal Kalan as Bikramjit Singh, S.P., Fazilka reached Behbal Kalan at 10.30 A.M. and Charanjit Singh, S.S.P., Moga reached Behbal Kalan after arrival of the S.P., Fazilka. According to aforesaid two officers they were accompanied by Paramjit Singh Pannu, ADCP, Ludhiana, Tejvir Singh, ACTP Sahnewal, Inspector Harpal Singh, SHO, Police Station, Ladowal, Inspector Devinder Kumar, SHO, Model Town, Ludhiana, Inspector Sandip Wadera, SHO Division No.2, Ludhiana, SI Sukhvinder Kumar

Chopra, SHO PAU, Inspector Maninder Bedi, Ludhiana, SI Mahinder Pal, Incharge Tear Gas, Ludhiana and also two QRT Teams from Ludhiana along with SI Bhupinder Singh, SHO Police Station Fatehgarh Panj Toor and Inspector Pardip Singh from District Moga along with their gunmen. Mr. Bikramjit Singh, S.P. Fazilka was joined and examined by the Inquiry Commission as CW-65 and Mr. Charanjit Singh Sharma, S.P. Moga was joined and examined as CW-83.

[12]. Learned Senior counsel for the petitioners referred to the following observations made by the Inquiry Commission at page No.88 of the report:-

“Though the police had tried to be as evasive as possible but somehow sufficient evidence has come on record about Charanjit Sharma getting trapped while interacting with public or while lathi charge was on. This is possibility. This fact though is denied by CW-83 but is stated by none other than a senior police officer S.P Bikramjit Singh present there CW-83 is even accused of yielding lathi and may be he got trapped then. Apparently, it is at this stage the police seems to have opened fire when CW-83 perhaps got trapped while doing lathi charge on the protesters. It is very pertinent to notice that except for one constable no one else had received any noticeable injury at Behbal Kalan. Amarjit Singh (CW-2.1) and Shamsher singh (CW-73), one of the gunmen of CW-83, have stated that they were injured. There is not much evidence in support of the version of CW-21 on record in this regard. Strangely Shamsher

Singh (CW-73) states to have suffered a fracture but instead of receiving treatment at Government hospital from where he was discharged on 15.10.2015, he went to Amritsar to receive treatment from a private hospital. Once he was admitted in Government hospital there can be no justification for this witness to receive treatment at a private hospital that too at Amritsar. Shamsher Singh (CW-73) has throughout remained as gunman with Charanjit Singh Sharma wherever he has moved to different assignments. CW-73 is a true confident of CW-83.”

[13]. Learned Senior counsel for the petitioners also referred to page 94 of the report, wherein the Commission with reference to the statement of Beant Singh CW-177 made the following observations:-

“Beant Singh (CW-177) had named Shri Umranangal being present at Behbal Kalan. He apparently seems to have stated so on the basis that one person was wearing civil clothes. Beant Singh (CW-177) states to have recognised Mr. Umranangal on the basis that of person wearing civil clothes and that he was not in uniform. Since Shri Umranangal was not the only persons who was wearing civil clothes on 14.10.2015 (as Shri Amar Singh Chahal was also wearing such clothes) it is possible that the witness may have taken him as IG Umranangal. There is not evidence that Shri Umranangal had gone to Behbal Kalan on the morning of 14.10.2015. However, Shri Amar Singh Chahal along with S.S.P. Raghbir Singh had gone to Behbal Kalan. Amar Singh Chahal was in civil dress and this may have been

the reason for Beant Singh to state so in his affidavit about the presence of Mr. Umranangal at Behbal Kalan. The Commission find that Sh. Charanjit Singh Sharma (CW-83), Inspector Pardip Singh (CW-80), Amarjit Singh (CW-21) and SP Bikramjit Singh (CW-65) are specifically named in either opening fire or of directing other to open firing at Behbal Kalan. Possibility of gunman of Shri Charanjit Singh Sharma specially Shamsher Singh (CW-73) to have opened fire at Behbal Kalan when CW-83 was trapped can also not be ruled out. Shamsher Singh has suffered injury at Behbal Kalan as per his own showing.....”

[14]. Learned Senior counsel for the petitioners also referred to the page no.97 of the report, wherein the Commission has observed in the following manner:-

“In view of the evidence coming before the Commission, Shri Charanjit Singh Sharma (CW-83), Inspector Pardip Singh (CW-80), SI Arriarjit Singh (CW-21), SSP Bikramjit Singh (CW-65) be named as accused in FIR No.130 Police Station Baja Khanna and their role be thoroughly investigated which has not happened so far. Role of gunman of Shri Charanjit Singh Sharma (CW-83) namely constable Shamsher Singh (CW-73), Constable Harpreet Singh (CW-153), constable Gurpreet Singh (CW-154) and constable Parminder Singh (CW-155) and as also of inspector Harpal Singh SHO Ladowal needs to be thoroughly investigated as they were carrying assault rifles at Behbal Kalan. The role of the commando police for use of indiscriminate lathi charge causing injuries to number of persons also require investigation which has not been done till date. At least

all these persons are responsible for causing hurt/grievous hurts to number of persons at Behbal Kalan....."

[15]. On the basis of aforesaid observations recorded by the Commission in the report, learned Senior counsel for the petitioners submitted that the ultimate recommendations of the Commission did not involve the petitioners criminally in the incident of firing at Behbal Kalan. The report of the Inquiry Commission was tabled in the Vidhan Sabha, Punjab in August 2018 with an Action Taken Report (ATR). Column nos. 2 and 10 of the Action Taken Report on the recommendations of the Commission of Inquiry headed by Hon'ble Mr. Justice Ranjit Singh (Retd.) read as under:-

Sr. No	Summary of Recommendations	Action Taken
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2	Action at Behbal Kalan: <i>".....The Commission had even got the inquiry done in this regrd but the report by SIT headed by present IG Mr. Chinna, IG Bhatinda range proved to be of no help. The SIT has not done very satisfactory job"...(Ref. Page No.95 of Part I)."In view of the evidence coming before the Commission Shri Charanjit Singh Sharma (CW-83), Inspector Pardip Singh (CW-80), SI Amarjit Singh (CW-21), SSP Bikramjit Singh (CW-65) be named as accused in FIR No.130 Police Station Baja Khanna and their role be thoroughly investigated which has not happened so far. Role of gunman of Shri Charanjit Singh Sharma (CW-83) namely constable Shamsher Singh (CW-73),</i>	<i>The recommendations of the Commission have been accepted by the Government. Case FIR No.130 dated 21.10.15 u/s 302/307/34 IPC and 25, 27 of Arms Act already stands registered at PS Baja Khana, District Faridkot. Further necessary action has been taken to nominate those police officials as accused in this case, as recommended by Commission, whose names are as follows:</i> 1. Shri Charanjit Sharma, PPS 2. Shri Bikramjit Singh, PPS 3. Insp. Pardip Singh 4. SI Amarjit Singh

Sr. No	Summary of Recommendations	Action Taken
	Constable Harpreet Singh (CW-153), constable Gurpreet Singh (CW-154) and constable Parminder Singh (CW-155) and so also Inspector Harpal Singh SHO Ladowal needs to be thoroughly investigated as they were carrying assault rifles at Behbal Kalan The role of the commando police for use of indiscriminate lathi charge causing injuries to number of persons also require investigation which has not been done till date.” (Ref. Page No.97 of Part I) “Action must follow against all these responsible if these empties have been done away with. Action is called for against CW-256 for shoddy investigation of FIR No.130 dated 21.10.2015” (Ref. Page No.98 of Part I)	Also, the role of gunmen of Shri Charanjit Singh Sharma, PPS namely Constable Shamsher Singh, Constable Harpreet Singh, Constable Gurpreet Singh and Constable Parminder Singh and so also of Inspector Harpal Singh the then SHO Ladowal, will be thoroughly investigated as they were carrying assault rifles as per the findings of Commission. Detailed analysis of the report has also been carried out to identify the names of such Police officials and specify instances of misconduct on their part. The matter has been referred for appropriate action to be taken by the competent authority for initiating disciplinary proceedings against them.
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10	Dereliction of Duty by Police and Civil Officials- With reference to the findings of the Commission which may lead to inferences of dereliction of duty, misconduct or otherwise involving serious shortfall/deficit in discharge of official duties, it is also proposed that departmental inquiry be initiated against the concerned officers under the applicable/relevant service/conduct Rules.	The status of departmental action initiated by the concerned authorities as below:

Sr. No .	Summary of Recommendations	Action Taken
	<i>i. Civil Officers:</i> <i>“.....Their names have been disclosed in the different parts of the report while dealing with these issues. The Commission would accordingly recommend appropriate action in accordance with law against all such officials.”</i> (Ref. Page No.179 of Part I) <i>ii. Police Officers:</i> <i>“....Their names have been disclosed in the different parts of the report while dealing with these issues. The Commission would accordingly recommend appropriate action in accordance with law against all such officials.”</i> (Ref. Page No.179 of Part I).	<i>The Chief Secretary has been directed to take appropriate disciplinary action against all civil officials as per the recommendation of the Commission and complete the same within 90 days.</i> <i>The State Government has issued Show Cause Notices have been issued to following 14 senior officials:</i> <i>1) Sh. Charanjit Singh Sharma, the then SSP/Moga.</i> <i>2) Sh. Amar Singh Chahal, the then DIG/Ferozepur Range.</i> <i>3) Sh. Rohit Chaudhary, the then ADGP/Law & order.</i> <i>4) Sh. Raghubir Singh, the then SSP/Mansa.</i> <i>5) Hardial Singh Mann, the then SSP/Ferozepur.</i> <i>6) Sh. S.S. Mann, the then SSP/</i> <i>7) Sh. M.S. Chhina</i> <i>8) Sh. Sumedh Singh, the then DGP.</i> <i>9) Sh. I.P.S. Sahota, the then Head of SIT.</i> <i>10) Sh. Jatindera Jain, the then IGP/Bathinda.</i>

Sr. No	Summary of Recommendations	Action Taken
		11) Sh. Paramraj Singh Umranangal, the then CP/Ludhiana. 12) Sh. Baljit Singh Sidhu, the then DSP/Kotkapura. 13) Sh. Jagdish Bishnoi, the then DSP. 14) Sh. Bikramjit Singh (then SP). DGP vide 6047/CB.3 dated 14.08.2018 has reported that the following departmental action is proposed on the findings of the Justice (Retd.) Ranjit Singh Commission of Inquiry. i) Departmental Enquiry against the following police officers/officials for their involvement in FIR No.130 dated 21.10.2015 u/s 302/307/34 IPC, 25 Arms Act, PS Bajakhana, district Faridkot (Behbal Kalan firing): 1. Sh. Charanjit Singh Sharma- DE already ongoing. 2. Sh. Bikramjit Singh, Superintendent of Police. 3. Inspector Pardeep Singh 4. SI Amarjit Singh ii) Explanations have been sought from the following Non-Gazetted Police officials by the concerned disciplinary authorities by providing them extracts of findings of the Commission concerning them, with further appropriate action to be taken by the concerned disciplinary authorities:-

Sr. No.	Summary of Recommendations	Action Taken
		1) SHO, PS Bajakhana (Investigation of Behal Kalan firing) 2) SHO, PS Bajakhana (Investigation of theft of Sri Guru Granth Sahib Ji at village Burj Jawahar Singhwala). 3) Inspector Manjit Singh (Scattering of Angs at Bargari). 4) SI Gurdip Singh, SHO, PS Kotkapura (Kotkapura Firing). 5) SI Daljit Singh (Affixing of Posters, Scattering of Angs at Bargari). 6) SI Gurpal Singh (Incident at village Malke). 7) SHO Gurpiar Singh (Incident at village Malke). 8) SI Amarjit Singh (Affixing of Posters, Scattering of Angs at Bargari). 9) Inspector G.S. Bhullar, SHO, Bajakhana (Behbal Kalan). 10) ASI Palwinder Singh, Incharge Police Post Bargari (Scattering of Angs at Bargari). DGP has been directed vide Letter No.7/213/2013-3H4/4130, dated 24.08.2018 to complete the proceedings against the above noted officers within 90 days. lii) Apart from the above, suitable action will also be initiated against other Non-Gazetted Police Official, if any, against whom such action is required to be taken at any later stage.
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[16]. Perusal of aforesaid Action Taken Report would show that in view of recommendations of the Inquiry Commission at page 179 of the report, the State Government has issued show cause notices to 14 police officers including the petitioners. The

details of those 14 police officers find mention in the column No.10 of the Action Taken Report. On the basis of recommendations, the petitioners were proceeded against departmentally. A show cause notice for disciplinary action was issued to the petitioner-Paramraj Singh Umranangal on 23.08.2018. Chargesheet was served upon the petitioner on 24.09.2020 and he was placed under suspension w.e.f. 26.09.2020 vide order dated 20.11.2020 under Rule 3(3) of All India Services (Discipline and Appeal) Rules, 1969.

[17]. Learned Senior counsel for the petitioners with reference to the aforesaid show cause notices further submitted that no criminality was indicated qua the petitioners as according to the findings of the Commission, observations were about the role of the petitioners which may lead to inferences of dereliction of duty, misconduct or otherwise involving serious shortfalls/deficit in discharge of his/their official duties.

[18]. Petitioner-Paramraj Singh Umranangal has challenged the aforesaid disciplinary proceedings in CWP No.14902 of 2020 and CWP No.22703 of 2020 in the High Court. On 18.02.2019 petitioner-Paramraj Singh Umranangal was arrested in FIR No.129 dated 07.08.2018 registered under Sections 307, 323, 341, 201, 218, 120-B IPC and Section 27 of the Arms Act at Police Station City Kotkapura pertaining to the

violence in Kotkapura. Petitioner was remanded to police custody and was released on bail on 11.03.2019 by the Court of Sessions at Faridkot. Learned Senior counsel for the petitioners referred to the aforesaid order and made reference to the observations made therein in respect of CCTV footage played in the Court which showed that about 45 police officers were attacked by the protesters and even *vajra* vehicle used for water cannon was set at fire. Driver was brutally beaten up by the protesters. Presence of the petitioner-Paramraj Singh Umranangal at Kotkapura was not unauthorized as he alone was not commanding the police party. Three persons namely Inspector Pardeep Singh, Bikram Jit Singh and Amarjit Singh Kalar filed petition(s) bearing CRM-M No.6694 of 2019 titled '*Inspector Pardeep Singh vs. State of Punjab*', CRM-M No.7137 of 2019 titled '*Bikram Jit Singh vs. State of Punjab*' and CRM-M No.7635 of 2019 titled '*Amarjit Singh Kalar vs. State of Punjab*' respectively before the High Court. Interim anticipatory bail(s) were granted to the aforesaid persons by the High Court and the said petitions are still pending.

[19]. Learned Senior counsel for the petitioners further submitted that the petitioner-Paramraj Singh Umranangal felt reasonable apprehension of his arrest in the present case as he was arrested in FIR No.129 dated 07.08.2018, therefore, he filed CRM-M No.10602 of 2019 in the High Court for issuance of

advance notice in the event of contemplating his arrest in the criminal case. The aforesaid petition was disposed of by the High Court vide order dated 07.03.2019 with a direction to the Police to give seven days prior notice in case petitioner is required for interrogation in the cases.

[20]. Learned Senior counsel for the petitioners further submitted that challan was presented in the present FIR on 12.04.2019 only against Charanjit Singh Sharma, the then S.S.P. Moga. Learned Senior counsel by referring to the findings of the SIT in the first challan submitted that Inspector Amarjit Singh, Bikramjit Singh, S.P. and Inspector Pardeep Singh were held responsible for not projecting true facts and thus committed offence under Section 166-A read with Section 120-B IPC. Petitioner-Paramraj Singh Umranangal was not named in any manner. It was also mentioned that during course of investigation conducted by the SIT, facts have emerged that *Ruqa* was scribed at P.S. City Kotkapura by S.S.P. Charanjit Singh, Inspector Pardeep Singh and SI Amarjit Singh, S.H.O. P.S. Bajakhana on the basis of which FIR No.129/2015 was registered at P.S. Bajakhana, wherein it has been admitted that the Police in their defence had made firing on the agitating public, killing Krishan Bhagwan Singh, Gurjit Singh and injuring Beant Singh etc. Thereafter, SSP Charanjit Singh, SP Bikramjit

Singh, Inspector Pardeep Singh and Inspector Amarjit Singh, SHO P.S. Bajakhana under a conspiracy at *kothi* of Suhail Singh Brar requisitioned .12 bore gun of Guard Charanjit Singh and in order to strengthen their part, fired shots on official Gypsy No.PB29-L-9612, thereby creating false evidence in order to shift blame on the public. To the extent of involvement of the aforesaid persons, the investigation was pending and it was observed that supplementary challan would be filed against them. There was no reference of the petitioners in the aforesaid context that supplementary challan would be filed against them as well. There was no investigation pending against the petitioners in view of first challan submitted on 12.04.2019. Inspector Pardeep Singh was made approver under the inducement of granting pardon to him. His statement was recorded on 03.09.2020 after five years of occurrence and thereafter GD No.16 was recorded on 27.09.2020 in which both the petitioners were nominated as accused persons in the present FIR.

[21]. Learned Senior counsel for the petitioners further submitted that second supplementary challan was filed by the SIT on 09.10.2020 against four more persons namely Amarjit Singh Kalar, Bikramjit Singh, S.P., Suhail Singh Brar and Pankaj Bansal. No supplementary challan was submitted against the

petitioners despite recording of GD No.16 dated 27.09.2020 and recording of approver's statement on 03.09.2020.

[22]. Learned Senior counsel for the petitioners further submitted that the petitioner -Paramraj Singh Umranangal filed CWP No.22703 of 2020 challenging his nomination as accused vide GD No.16 dated 27.09.2020. The High Court issued notice of motion to State of Punjab on 12.01.2021. Learned State counsel appearing on behalf of the State/Respondent had tendered an oral undertaking that the State will not proceed against the petitioner by using any coercive measure till the next date of hearing i.e. 18.01.2021. Though the said undertaking was not recorded in the order, but the said understanding is an admitted fact on record.

[23]. Learned Senior counsel for the petitioners further submitted that third supplementary challan was submitted by the SIT on 15.01.2021 on the statement of approver (Inspector Pardeep Singh). Even the complainant Resham Singh objected to the approvership of Inspector Pardeep Singh and filed an application in the Court, but the same was dismissed. In the concluding part of the challan, following recital has been made:-

“That Sumedh Singh Saini accused in this case was asked to join investigation on 25-2-2019 and similarly, Paramraj Singh Umranangal was asked to join investigation on 12-2-2019. Both have been granted

blanket bail by Hon'ble Punjab and Haryana High Court."

[24]. Learned Senior counsel for the petitioners further submitted that even perusal of the aforesaid third supplementary challan would show that the supplementary challan *qua* remaining accused is also to be filed i.e. *qua* SI Gurdeep Singh. On presentation of supplementary challan, Judicial Magistrate Ist Class, Faridkot issued notice to the petitioners vide order dated 15.01.2021 requiring them to appear in the Court on 09.02.2021. Petitioner-Paramraj Singh Umranangal filed CM No.1467-CWP of 2021 in CWP No.22703 of 2020 and sought preponement in the date of hearing with a prayer to issue directions to the trial Court to defer the proceedings in pursuance of notice dated 15.01.2021. The High Court took cognizance of the application on 09.02.2021 and directed that the appearance of the petitioner on 09.02.2021 shall stand deferred. However the Court clarified that the deferment of presence of the petitioner before the trial Court is not to be treated as any expression on merits of the case. Copies of supplementary challan was to be handed over to the counsel for the writ-petitioner. The aforesaid order was passed keeping in view the fact that the present petition for grant of anticipatory bail of the petitioner was pending at that time and was fixed for 11.02.2021. Thereafter Judicial Magistrate Ist

Class, Faridkot passed an order dated 09.02.2021, directing that no bailable warrants be issued against the petitioner-Paramraj Singh Umranangal till the next date of hearing. Bailable warrants, if any, issued were recalled. The case was adjourned for 01.03.2021.

[25]. Learned Senior counsel for the petitioners further submitted that Inspector Pardeep Singh is an accused, whose anticipatory bail is pending in the High Court. His statement as approver has been recorded on 03.09.2020 and both the petitioners were nominated vide GD No.16 dated 27.09.2020. There is no material to support the statement of the approver in the first challan as well as in the report of second Inquiry Commission. Admittedly, the petitioners were asked to join investigation on 12.02.2019 and 25.02.2019 i.e. the dates on which both the petitioners were not even nominated as accused persons in any manner. Even GD No.16 was recorded on 27.09.2020 on the statement of approver dated 03.09.2020. Perusal of notice dated 07.02.2019 requiring petitioner-Paramraj Singh Umranangal to appear before the Special Investigation Team on 12.02.2019 cannot be termed to be an effort for joining the petitioner in the investigation of third supplementary challan. Admittedly, notice dated 20.02.2019 issued to the petitioner-Summedh Singh Saini requiring him to appear before the Special

Investigation Team was under Section 160 Cr.P.C. No notice was ever issued to both the petitioners after their nomination as accused vide GD No.16 dated 27.09.2020. Learned Senior counsel ultimately submitted that after filing of third challan in the Court, custodial interrogations of the petitioners are not required in any manner as the Investigating Agency has become *functus officio* after filing of third supplementary challan against the petitioners. Pending further investigation is with regard to SI Gurdeep Singh in whose favour order dated 25.09.2020 was passed by the High Court in CWP No.14706 of 2020 directing that no supplementary report under Section 173(8) Cr.P.C. shall be submitted by the SIT, however investigation may go on subject to further orders.

[26]. Learned Senior counsel for the petitioners by relying upon **Vijay Tyagi vs. Irshad Ali @ Deepak and others, 2013(2) R.C.R. (Criminal) 197; Vinubhai Haribhai Malaviya and Ors. vs. State of Gujarat and Anr., 2020(1) R.C.R. (Criminal) 1; Sushila Aggarwal and others vs. State (NCT of Delhi) and another (2020) 5 SCC1 and Ravindra Saxena vs State of Rajasthan, 2010(1) SCC 684** submitted that for undertaking further investigation, concurrence of the Court is required. Though there is no specific requirement under Section 173(8) Cr.P.C. to conduct further investigation or file supplementary report with the leave of the

Court, but the investigating agencies have not only understood but also adopted it as a legal practice to seek permission of the courts to conduct further investigation and file supplementary report with the leave of the court. The requirement of seeking prior leave of the court to conduct further investigation and/or to file a supplementary report will have to be read into, and is a necessary implication of the provisions of Section 173(8) Cr.P.C. The doctrine of *contemporanea expositi* will fully come to the aid of such interpretation as the matters which are understood and implemented for a long time, and such practice that is supported by law should be accepted as part of the interpretative process. It has been a procedure of propriety that the police has to seek permission of the court to conduct further investigation and to file supplementary chargesheet. Secondly, the anticipatory bail is maintainable even after filing of challan. Anticipatory bail can be granted at any time so long as the accused has not been arrested.

[27]. Learned Senior counsel for the petitioners submitted that in CRM-M No.45242 of 2018, the petitioner-Summedh Singh Sanin sought issuance of directions to hand over investigation in any matter registered against him to Central Bureau of Investigation or to any other independent agency outside the State of Punjab. The Court vide order dated 11.10.2018 passed

an order that till the next date of hearing in case the petitioner is sought to be arrested in Kotkapura sacrilege case or in case involving Aman Skoda of Moga or in any case pertaining to an incident of the period while the petitioner remained as State Vigilance Head or Inspector General of Police, Intelligence, Punjab or Director General of Police, Punjab, then one week's advance notice shall be afforded to the petitioner before effecting his arrest so as to enable him to have recourse to remedies available to him. The said petition is still pending and is fixed for 26.03.2021.

[28]. Learned Senior counsel for the petitioners further relied upon the order dated 03.12.2020 passed by the Hon'ble Apex Court in Crl. Appeal No.827 of 2020 (arising out of SLP (Criminal) No.4336 of 2020) thereby granting anticipatory bail in FIR No.77 dated 06.05.2020 registered at Police Station City Mataur, District SAS Nagar (Mohali) for the offence under Section 302 IPC. The Hon'ble Apex Court has observed that the petitioner stood retired in the year 2018 from the post of Director General of Police, Punjab. The FIR was registered in respect of occurrence of the year 1991. Initially there was no allegation in terms of Section 302 IPC. The allegations were only for the offences under Sections 364, 201, 344, 330, 219, 120-B IPC for which the petitioner was on anticipatory bail. Subsequently

offence under Section 302 IPC was added on the statements of approvers namely Jagir Singh and Kuldip Singh. The High Court rejected the anticipatory bail vide order dated 08.09.2020 passed in CRM-M No.26304 of 2020 and the Hon'ble Apex Court granted the anticipatory bail vide order dated 03.12.2020.

[29]. Per contra, learned Senior counsel duly assisted by learned State counsel appearing on behalf of the respondent/State opposed the bail on the ground that in view of page nos.88, 95, 97 and 179 of the report of second Inquiry Commission, both the petitioners have been indicted. Page nos.35, 41, 44, 45, 46, 48, 49, 50, 52, 54, 55, 63 and 64 of the report are in the context of violence at Kotkapura. With reference to page no.179 of the report, learned Senior counsel submitted that recommendations of the Inquiry Commission are clear and apparent enough to involve the petitioners in criminal prosecution.

[30]. Learned Senior counsel on behalf of the State further submitted that the petitioner-Paramraj Singh Umranangal was never deputed to Kotkapura and Behbal Kalan. He went on the oral orders of the then DGP Mr. Sumedh Singh Saini (petitioner in CRM-M No.8125 of 2021). Ludhiana Team did firing, having no jurisdiction over the area. No order of District Magistrate for use of force/firing was obtained. Only mild force was to be used

or to fire in the air. In order to cover unauthorized firing, an effort has been made to fabricate the record. Conspiracy angle is writ large on the record as *Ruqa* was never drawn at the spot. Police officers i.e. HC Surinder Kumar received injury at one place, but he is alleged to have received injuries at Behbal Kalan as well. The occurrence at Kotkapura took place palce between 6.00 A.M. To 6.30 A.M., whereas the occurrence at Behbal Kalan took place between 9.00 A.M. to 9.30 A.M. The distance between two places is about 15 kms. Therefore, the FIRs have been fabricated at the instance of the then DGP Sumedh Singh Saini (petitioner in CRM-M No.8125 of 2021).

[31]. Learned Senior counsel on behalf of the State further submitted that SSP Moga i.e. Charanjit Singh was on leave. He was called back. Police of Moga had no jurisdiction at Behbal Kalan. No order of deployment of these officers was passed. All that was happened at the instance of petitioner-Sumedh Singh Saini (the then DGP, Punjab). Behbal Kalan falls under the jurisdiction of Police Station Bajakhana which is in District Faridkot and the same was not under the IG Range of the petitioner-Paramraj Singh Umranangal, nor under the jurisdiction of SSP, Moga.

[32]. Learned Senior counsel on behalf of the State further submitted that as per statement of HC Kahhan Singh ruqa was

not drawn at the spot. This fact has been corroborated by the statement of approver. Both the petitioners did not join the proceedings effectively before the Inquiry Commission. The recommendations of the Inquiry Commission clearly indicated that the police officers are liable to be prosecuted and the recommendations have been accepted by the Government in *toto* on 28.08.2018.

[33]. Learned Senior counsel on behalf of the State further submitted that there was no ex-post sanction in favour of the petitioner-Paramraj Singh Umranangal for visiting sites i.e. Koktapura and Behbal Kalan. Statement of Mr. Rohit Chaudhary, ADGP was recorded in this context to the effect that neither the petitioner was deputed, nor his services were recommended for the site in question which shows that his presence was unauthorized at the instance of the then DGP. About 180 personnel were called unauthorizedly at both the places. Mr. Rohit Chaudhary, ADGP never requisitioned such personnel. As per deployment report from the SSP, Faridkot it can be seen that whenever force of outside district is required, there has to be a deployment report, but none is found in the present case. Charanjit Singh, SSP Moga was seen leading the force which ultimately went to Behbal Kalan and gave birth to firing incident, killing two persons.

[34]. Learned Senior counsel on behalf of the State further submitted that call records between the petitioners would prove that both were in constant touch with each other. The statement of the approver was in sealed cover. As per the last page of the statement of the approver, seal has appeared in the context of delivering a copy of report on the application dated 07.10.2020 in favour of Narinder Kumar, Advocate. The petitioner unauthorizedly got the statement and produced the same in the present petition. The report was not supposed to be made available to anyone being in sealed cover.

[35]. Learned Senior counsel on behalf of the State further submitted that the trial Court was duly informed before undertaking further investigation. At the time of presentation of second challan under Section 173(8) Cr.P.C. on 09.10.2020 against Amarjit Singh Kalar, Bikramjit Singh, S.P., Suhail Singh Brar and Pankaj Bansal, following recital was made at the end:-

“After completing the investigation against the remaining accused in the aforesaid case, report under Section 173(8) Cr.P.C. shall be presented/submitted.”

Inspector Pardeep Singh was lawfully declared as approver on 15.09.2020 by the Court of Sessions at Faridkot.

[36]. Learned Senior counsel on behalf of the State with reference to the credentials of petitioner-Summedh Singh Saini

submitted that the aforesaid accused has antecedent behaviour of criminal activities. References have been made to some previous cases.

[37]. Learned Senior counsel on behalf of the State further relied upon the proceedings of Special Court, CBI, New Delhi in which petitioner-Sumedh Singh Saini has been facing trial for more than 20 years in respect of abduction and elimination of Vinod Kumar and two other innocent persons for personal enmity.

[38]. Learned Senior counsel on behalf of the State further submitted that petitioner-Sumedh Singh Saini is one of the prime conspirators in the present FIR. Therefore, the custodial interrogations of both the accused are required in order to ensure fair trial of the case. There is every apprehension that the petitioners may misuse the concession of anticipatory bail as they have scant respect of the law. Notices dated 12.02.2019 and 25.02.2019 issued to the petitioners are matter of record.

[39]. According to learned Senior counsel on behalf of the State, the requirement under law is only to inform the Court about further investigation and that is apparent at the time of filing of second challan on 09.10.2020 when recital was made to the effect that after completing the investigation against the

remaining accused, supplementary challan under Section 173 (8) Cr.P.C. shall be filed.

[40]. As regards legal position as canvassed by learned Senior counsel for the petitioners, learned Senior counsel appearing on behalf of the State relied upon numerous judgments to advance his point of view with regard to the concurrence of the Court while undertaking further investigation and maintainability of the petition for anticipatory bail and imposition of conditions thereof.

[41]. Learned Senior counsel on behalf of the State by relying upon *Japani Sahoo vs. Chandra Sekhar Mohanty, (2007) 7 Supreme Court Cases 394; P. Vijayan vs. State of Kerala and Another, (2010) 2 Supreme Court Cases 398; Sajjan Kumar vs. Central Bureau of Investigation, (2010) 9 Supreme Court Cases 368; Lalita Kumari vs. Government of Uttar Pradesh and others, (2014) 2 Supreme Court Cases 1; King-Emperor vs. Khwaja Nazir Ahmad, AIR 1945 PC 18; State of Bihar and another vs. J.A.C. Saldanha and others and R.P. Singh vs. J.A.C. Saldhana and others, (1980) 1 Supreme Court Cases 554; Abhinandan Jha and others vs. Dinesh Mishra and Roopchand Lal and another vs. State of Bihar and another, (1967) 3 SCR 668; Sushila Aggarwal and others vs. State (NCT of Delhi) and another, (2020) 5*

Supreme Court Cases 1; Kiran Devi vs. State of Rajasthan and another, 1987 (Supp) Supreme Court Cases 549; State of Haryana and others vs. Bhajan Lal and others, 1992 Supp (1) Supreme Court Cases 335; Mutha Associates and others vs. State of Maharashtra and others, (2013) 14 Supreme Court Cases 304; Shiva Nath Prasad vs. State of W.B. and others, (2006) 2 Supreme Court Cases 757 and State of Bihar and another vs. P.P. Sharma, IAS and another, 1992 Supp (1) Supreme Court Cases 222

submitted that the general rule of criminal justice is that 'a crime never dies'. This principle is reflected in well known maxim *nullum tempus aut locus occurrit regi* (lapse of time is no bar to Crown in proceedings against offenders). Limitation Act does not apply unless there are express and specific provisions to that effect.

[42]. Learned Senior counsel on behalf of the State referred to P. Vijayan's case (supra) which was a case of retired DGP, who was involved in fake encounter. Learned Senior counsel with reference to para No.17 of the judgment submitted that the petitioners cannot be given any indulgence. Learned Senior counsel also referred to Sajjan Kumar's case (supra) on the issue of delay and further submitted that in view of ratio of Lalita Kumari's case (supra), the FIR has to be registered when it is found that a cognizable offence is made out. On the

basis of statement of approver, a cognizable offence was found against the petitioners and they have been nominated in a lawful manner. The Police cannot avoid its duty to register a case when cognizable offence is disclosed. Learned Senior counsel also submitted that interpretation of **Sushila Aggarwal and others'** case (supra) has not been correctly espoused by learned Senior counsel for the petitioner(s). He further submitted that the petitioners without impleading a person cannot allege *mala fide* against him.

[43]. Having heard learned Senior counsel for the parties at length, I find that both the petitioners have been nominated only in third supplementary challan filed in the Court on 15.01.2021. During course of further investigation conducted by the Special Investigating Team (SIT), the petitioners have not been joined in the investigation by the SIT. The only notice received by the petitioner-Paramraj Singh Umranangal in the context of joining investigation was a notice dated 07.02.2019, requiring him to join the investigation on 12.02.2019. In case of petitioner-Summedh Singh Saini, the said notice was issued on 20.09.2019 requiring him to join investigation on 25.02.2019. Apparently, both the notices were prior to their nomination as accused persons vide GD No.16 dated 27.09.2020 and even prior to recording of approver's statement on 03.09.2020. No

material has been shown to indicate that the petitioners were ever sought to be joined in further investigation.

[44]. Both the parties have tried to interpret law in respect of further investigation with the leave of the Court. *Prima facie* at this stage without making any final opinion on the issues, it can be seen that the cumulative interpretation of law is to see that doctrine of *contemporanea expositi* is fully applicable and it is a procedure of propriety that the police has to seek permission of the court to conduct further investigation. The investigating agency by now have also understood and applied the principle. The matters which are understood and implemented as a legal practice are not opposed to basic rule of law and the same is permissible with the aid of doctrine of *contemporanea expositi*.

[45]. Reference to the last recital in second supplementary challan would show that the Police at the time of submitting second challan has recited that after completing the investigation against the remaining accused, report under Section 173(8) Cr.P.C. shall be presented. At the time of filing of second challan on 09.10.2020, the petitioners have already been nominated vide GD No.16 dated 27.09.2020. Whether the aforesaid recital would be sufficient or not cannot be conclusively commented upon at this stage, lest it may prejudice the case of the parties.

[46]. This Court refrains itself from making any final opinion with regard to the legal interpretations on the issue of further investigation with leave of the Court as detailed discussion may prejudice the case of the parties. This Court also refrains itself from making observation with regard to the *mala fide* in launching prosecution against the petitioners, however on the basis of facts and circumstances, this Court finds that both the petitioners have not been associated in the investigation of third supplementary challan. There is no notice available on record except the notice dated 07.02.2019 issued to petitioner-Paramraj Singh Umranangal and notice dated 20.02.2019 issued to petitioner-Summedh Singh Saini. These notices were issued even prior to their nominations as accused vide GD No.16 dated 27.09.2020.

[47]. At the time of tabling of the report of second Inquiry Commission in Punjab Vidhan Sabha, Action Taken Report (ATR) was also submitted proposing to proceed against the petitioners departmentally. The issue would be considered by the appropriate Court. Initially FIR was registered against Charanjit Singh, SSP Moga. Thereafter in second supplementary challan, four more accused were nominated and it was only in third supplementary challan, both the petitioners were nominated.

[48]. Evidently, the third supplementary challan has been presented against the petitioners and their custodial interrogation is not required. The recital of third supplementary challan i.e “after completing investigation against the remaining accused, supplementary challan against the remaining accused would be filed under the provision of Section 173(8) Cr.P.C.” is only qua SI Gurdeep Singh because he has filed CWP No.14076 of 2020 in the High Court in which filing of supplementary report qua him was stayed vide order dated 25.09.2020. Involvement of accused in other cases also is no ground to discard the claim of bail in view of **Prabhakar Tewari vs. State of U.P. & Anr., Crl. Appeal No.153 of 2020 (arising out of SLP (Crl.) No.9207 of 2019)** decided on 24.01.2020.

[49]. In view of aforesaid facts and circumstances, I deem it appropriate to accept both the petitions and grant anticipatory bail to the petitioners. Petitioners shall not be arrested in pursuance of their appearance before the Judicial Magistrate Ist Class, Faridkot. Now the petitioners shall appear before the Judicial Magistrate Ist Class on 08.03.2021. However, the competent Court would admit the petitioners to bail subject to its satisfaction. The competent Court would be at liberty to proceed with the case in accordance with law. Both the petitions are allowed.

[50]. Nothing observed hereinabove shall be considered to

be an opinion on merits of the case.

March 01, 2021

Atik

Whether speaking/reasoned

Whether reportable

(RAJ MOHAN SINGH)

JUDGE

Yes/No

Yes/No