

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

CRM-M No.10272 of 2021
Date of Decision: 08.04.2021

Darshan Singh

.....Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MR. JUSTICE RAJ MOHAN SINGH

Present: Mr. Deepinder Brar, Advocate
for the petitioner.

Mr. Amar Ashok Pathak, Addl. A.G., Punjab.

RAJ MOHAN SINGH, J. (ORAL)

The case has been taken up for hearing through
video conferencing.

CRM No.11058 of 2021

Copy of challan dated 20.12.2020 is taken on record
as Annexure P-4, subject to all just exceptions.

Application stands disposed of.

CRM-M No.10272 of 2021

The petitioner seeks grant of regular bail in case
bearing FIR No. 171 dated 18.11.2019 registered under
Sections 302, 120-B IPC and Section 27 of Arms Act at Police
Station Nehianwala, District Bathinda.

FIR was registered at the instance of complainant, namely, Kiranjeet Kaur with the allegations that she was married to Kuldeep Singh about 4 years ago. Lakhvir Singh Khalsa was married in village Ablu District Bathinda. Darshan Singh is his real brother. Harmeet Singh is his cousin. All of them were married to three sisters. The complainant had two sons, namely, Amitoj Singh, aged quarter to 3 years and daughter, namely, Arpanjot Kaur aged 7 months. The husband of the complainant and mother-in-law Sukhpal Kaur on demise of her father-in-law Bohar Singh started living in village Ablu for the last 21 years. The mother-in-law of the complainant were four sisters, namely, Sukhpal Kaur, Harjinder Kaur (married to Lakhvir Singh Khalsa), Gurmeet Kaur (married to Harmeet Singh) and Paramjit Kaur (married to Darshan Singh-petitioner).

Further allegations are that Nana Saura of the complainant Chanan Singh @ Ruldu Singh was having 36 killas of land. Out of which 8 killas land was in the name of Nani Saas, namely, Gurdev Kaur. The said land was transferred in the name of husband of the complainant (Kuldeep Singh) even prior to her marriage. Out of the remaining land, Nana Saura of the complainant transferred 10 killas of land prior to his death in the name of Sukhpal Kaur and rest of the land was transferred in

the name of Harjinder Kaur, Gurmeet Kaur and Paramjit Kaur to the extent of 6.5 acres each. Nana Saura of the complainant was apprehensive that his other daughters may not sell the land, therefore, the land in their names was leased out for 59 years in favour of husband of the complainant Kuldeep Singh. Nana Saura of the complainant died two months prior to the occurrence. Thereafter, maternal aunts of husband of the complainant and their family members started pressurizing for giving them the land after partition.

On 17.11.2019, i.e. a day before the occurrence, maternal uncles of husband of the complainant, namely, Darshan Singh (petitioner) and Harmeet Singh came to the house in connection of the controversy and warned the husband of the complainant (Kuldeep Singh) that they all the three have united and it would be better to leave the land beyond the share of husband of the complainant otherwise they will not spare him. On 18.11.2019, maternal aunts of husband of the complainant, namely, Harjinder Kaur, Paramjit Kaur, Parminder Singh and Arshdeep Singh son of Paramjit Kaur and father of the complainant, Balwinder Singh had come to the house of the complainant. In the meanwhile, a vegetable howker came in front of house of the complainant and maternal aunt, namely,

Harjinder Kaur suggested the complainant to fetch green vegetable (Saag) from the vender. The complainant and her husband went to the gate to fetch vegetables. Father of the complainant also followed them. When they were in the process of purchasing the vegetables, then a bullet motorcycle being driven by maternal uncle of Kuldeep Singh, namely, Lakhvir Singh Khalsa came to be stopped at some distance from house of the complainant. Lakhvir Singh Khalsa immediately pulled out his revolver and fired upon Kuldeep Singh, who fell at the gate. In falling condition, he pumped 3-4 more bullets in his body. On raising alarm by the complainant and her father, Balwinder Singh, he ran away along with his arm on foot. The doctors declared Kuldeep Singh as dead.

Learned counsel for the petitioner submits that the petitioner is an accused of conspiracy on the basis of his overt-act dated 17.11.2019 when he along with Harmeet Singh visited the house of the complainant and gave threats for leaving the share of other rightful claimants of the land. Lakhvir Singh Khalsa did not associate with the petitioner and Harmeet Singh on the day of giving threats and there was no meeting of mind between the petitioner and Lakhvir Singh Khalsa. All the claimants of the land were well within their right to claim their

share after partition and for this if some meeting took place between the co-sharers that cannot amount to a conspiracy to eliminate Kuldeep Singh particularly when Lakhvir Singh Khalsa did not participate in the alleged occurrence dated 17.11.2019 vide which the petitioner and Harmeet Singh allegedly gave threats to the complainant party. The petitioner is in custody since 01.11.2020. After filing of challan and framing of charges, no prosecution witness has been examined so far.

The factual position of the case is not in dispute. However, learned State counsel opposed the bail to the petitioner on the ground that the petitioner is an accused of criminal conspiracy and the offence in terms of Section 120-B IPC has to be considered along with Section 302 IPC.

The petitioner is in judicial custody since 01.11.2020. Prima facie allegations are that he along with Harmeet Singh allegedly gave threats to the complainant party a day prior to the occurrence. On the date of occurrence, the petitioner has not visited the site, only Lakhvir Singh Khalsa came in front of house of the complainant and fired upon Kudeep Singh repeatedly and killed him. It would be a debatable question as to the complicity of the petitioner for the offence under Section 302 IPC as prima facie he is accused of criminal conspiracy as of now. The

complicity of the petitioner would be determined on the basis of quality of evidence to be led by the parties.

Keeping in view the aforesaid facts and circumstances, without adverting to the merits of the case, I deem it appropriate to enlarge the petitioner on regular bail.

In view of above, petition is allowed. Petitioner is ordered to be released on bail, subject to his furnishing adequate bail bonds/surety bonds to the satisfaction of the trial Court/concerned Duty Magistrate.

Nothing observed hereinabove, shall be construed to be an expression of opinion on the merits of the case.

(RAJ MOHAN SINGH)
JUDGE

08.04.2021
sandeep

Whether Speaking/Reasoned : Yes/No

Whether Reportable : Yes/No