

CRM-M-13753-2021 (O&M)

Through video conference

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

**CRM-M-13753-2021 (O&M).
Decided on: November 24, 2021.**

DHANWANT SINGH

.. Petitioner

VERSUS

STATE OF PUNJAB

.. Respondent

*** * ***

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

*** * ***

**PRESENT Mr.Vinod Ghai, Sr. Advocate, assisted by
 Ms.Kanika Ahuja, Advocate,
 for the petitioner.**

Ms.Bhavna Gupta, DAG, Punjab.

**Mr.Sangram Singh Saron, Advocate,
for the complainant.**

JASGURPREET SINGH PURI, J. (ORAL)

The present petition has been filed under Section 438 of the Code of Criminal Procedure, for grant of anticipatory bail in FIR No.92 dated 5.12.2020 registered under Sections 302, 307, 506, 427, 148 and 149 IPC and Section 25, 27 of the Arms Act (Section 379-B IPC added later on), registered at Police Station, Sadiq, District Faridkot.

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As per the FIR recorded on the statement of Davinder Singh son of Gurvinder Singh, resident of Bhangewala, District Sri Muktsar Sahib, on 04.12.2020 at about 10:30 in the night, a phone call of his brother-in-law namely Kuldeep Singh son of Lakhvir Singh was received who informed that he along with one other person namely Gurpreet Singh son of Rashpal Singh, had come to Sadiq in their Verna Car. A truck of gravel (small rocks) was given to Jagmeet Singh alias Gaggi who is a Trader regarding which they had a dispute on transaction of money and the aforesaid Jagmeet Singh along with his men are roaming in Sadiq area and he along with Harbilas Singh have threatened to kill aforesaid Kuldeep Singh and from whom he had danger of life. On hearing this the complainant and aforesaid persons namely Kuldeep Singh and Gurpreet Singh boarded in two cars which were being driven by the complainant himself and Paramveer Singh and Navdeep Singh were sitting with him and another Car Alto was being driven by Rajkaran Singh and Mandeep Singh was sitting with him and when they reached near Sadiq, his brother-in-law - Kuldeep Singh along with Gurpreet Singh son of Rashpal Singh, resident of Sadiq were standing near their Verna Car and were waiting for them and when they met them, then from the front side three vehicles, i.e. white Scorpio, black Scorpio and white colour Icon Car came towards them and the person riding in the car, i.e. Harbilas Singh son of Lachhman Singh, armed with 12 bore gun; Jagjit Singh alias Gaggi son of Pappa Singh, armed with iron Kappa; Manpreet Singh alias Mani son of not known, resident of Bura Gujjar, armed with iron Kapa and **Dhanwant Singh**

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(petitioner) son of Jasvir Singh, resident of Mann Singh Wala, armed with pistol whom they already knew and whose faces were clearly visible in the lights of vehicles and about 7-8 unknown persons along with them armed with weapons came out of their vehicles and with intention to kill them attacked suddenly. Harbilas fired a direct shot of his 12 bore rifle towards his brother-in-law - Kuldeep Singh, which hit on the right side of stomach and meanwhile **Dhanwant Singh (petitioner)** fired a shot from his pistol towards his brother-in-law - Kuldeep Singh, which hit on his right cheek, due to which his brother-in-law fell on the ground and then Jagjit Singh alias Gaggi gave a blow of Kapa to Kuldeep Singh, which hit him on the face. Thereafter, complainant, Paramveer Singh, Navdeep Singh and Mandeep Singh being afraid ran back to save their lives and the accused persons fired shots from their rifles towards them also and pellets hit the complainant and Navdeep Singh and all four saved their lives with great difficulty by taking the cover in the shops. Thereafter, while hiding, they could see Rajkaran Singh who was hiding in his Alto Car, but Manpreet Singh alias Mani armed with Kapa along with his remaining 7-8 unknown persons armed with weapons, attacked the Car of Rajkaran Singh and by taking Rajkaran Singh out of the Car, Manpreet Singh alias Mani gave a blow of his Kapa to Rajkaran Singh, which hit on the legs of Rajkaran Singh and unknown persons gave two-three blows of rod on the window-panes of the Car and in this way, in connivance with each other, they attacked them with intention to kill them and from there the accused ran away in their Cars along with their respective weapons. Thereafter, the

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complainant and Navdeep Singh brought both, the injured Kuldeep Singh and Rajkaran Singh to Medical Hospital, Faridkot in their i-20 Car for treatment, where the Doctor declared Kuldeep Singh as dead and Rajkaran Singh was admitted for treatment. It has been further stated in the FIR that reason for the grudge was that deceased Kuldeep Singh had bought a truck of gravel (small rock stones) for Jagmeet Singh alias Gaggu, regarding which they had the money transaction dispute and even on the same day, Jagmeet Singh alias Gaggu and his brother-in-law, Kuldeep Singh had exchanged abuses on telephone and Harbilas Singh had threatened to kill Kuldeep Singh on the phone regarding which Kuldeep Singh had told the complainant.

Mr.Vinod Ghai, learned Senior Advocate, assisted by Ms.Kanika Ahuja, Advocate, for the petitioner has submitted that in the present case, the petitioner was falsely implicated and there were material discrepancies in the information provided by the complainant as incorporated in the FIR; inquest report and the post-mortem report. He referred to Annexure P-3 which is the inquest report wherein the police had recorded a **“mark of firearm shot on the right side of the stomach and one firearm shot injury mark near the nose and one injury mark below the lip.”** He referred to the Post Mortem Examination Report (Annexure P-2) to show that there was only one injury on the abdomen pertaining to firearm out of total 10 injuries. It was only injury No.7 which according to post mortem examination report pertain to the firearm and the said injuries were blunt in nature. While co-relating the same with the contents of the

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FIR, he submitted that as per the FIR, the role attributable to the petitioner was that he had allegedly fired a shot from his pistol on Kuldeep Singh which hit him on his right cheek whereas as per the post mortem examination report, there was no firearm injury either on cheek or on the face and it was only found on the abdomen and as per the FIR, the firearm on the abdomen was attributable to Harbilas Singh and not the petitioner.

Learned Senior counsel further argued that as per status report filed by the State, it has been mentioned in para 10 that when the father of the petitioner filed a representation to the police claiming his son to be innocent then the Senior Superintendent of Police, Faridkot, got the contents of representation inquired into from the Superintendent of Police (PBI) Faridkot, and it transpired that the petitioner was present at Mani Singh Wala at the relevant time which would mean that the petitioner was not present at the place of occurrence which is stated to be Sadiq and not Mani Singh Wala. He further submitted that in view of the fact that the petitioner was not present at the spot of occurrence, he has been falsely implicated in the present FIR. He further submitted that vide order dated 26.3.2021, the arrest of the petitioner was stayed by this Court till the next date of hearing and thereafter, interim orders were directed to be continued. He submitted that while the matter was being inquired into by the the Superintendent of Police (PBI) Faridkot, his father and he himself had cooperated with the inquiry proceedings and therefore, the petitioner may be granted the concession of anticipatory bail.

On the other hand, Ms.Bhavna Gupta, learned Deputy

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Advocate General, Punjab, while opposing the grant of anticipatory bail to the petitioner has submitted that a detailed affidavit has been filed by the State with regard to the role of the petitioner. While referring to the affidavit of the Deputy Superintendent of Police, Sub Division, Faridkot, filed by the State, learned Deputy Advocate General, submitted that post mortem examination report of deceased Kuldeep Singh depicted total 10 injuries suffered by him and the cause of death was the result of shock due to injury No.7 consequent upon smooth bore firearm weapon which is sufficient to cause death in the ordinary course of nature. She submitted that in the inquest report of the concerned I.O./SHO which was prepared by him was without any medical expertise and he gave a report of his formal observation of appearance of dead body and mentioned only three injuries 2, 3, and 7 which appeared to be fatal and did not give any detail of entire injuries. She submitted that a perusal of post mortem examination report reveals that deceased had suffered 3 injuries on his face, in particular injury no. 2, 3, and 4. Injury No. 2 which was attributed to the petitioner was reported by complainant to be a firearm injury which is a lacerated wound 1.3 X 1.2 CM, present on right side of face 02 cm. below lateral end of right eye associated with a reddish abraded bruise C shaped present in an area 2.2 X 1.4 CM around the wound at its medial aspect and therefore, the same was also mentioned by I.O. to be a firearm injury in the inquest report prepared by him. She submitted that the I.O. at that point of time even without medical report was not having medical expertise and therefore, the argument raised by the learned senior counsel would not sustain only on the

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ground that there are material discrepancies in the note recorded by the I.O. in the inquest report and the post mortem examination report. She further submitted that beside the FIR the complicity of the petitioner in the crime was well established by the statement of eye witnesses namely Navdeep Singh, Rajkaran Singh and Paramvir Singh. Petitioner is one of the prime perpetrator of the crime as he actively participated in the offence and even cross version of Jagmeet Singh alias Gaggu establish the presence of complainant/informer at the time of occurrence. Furthermore, accused Jagmeet Singh who was under treatment at Civil Hospital, Sri Muktsar Sahib, and was arrested in accordance with law during interrogation on 15.12.2020, suffered a disclosure statement under section 27 of the Evidence Act and got recovered on 'Kappa' on his demarcation. Thereafter, accused Harbilas Singh surrendered before the Learned Magistrate, Faridkot and he also produced the snatched pistol of deceased Kuldeep Singh a 32 bore no. 48993, along with 6 empty cartridges, a Scorpio car No. PB-30W-8004 and thereafter when accused Manpreet Singh son of Balwinder Singh Resident of village Bura Gujjar surrendered before the learned Judicial Magistrate, Faridkot, he got recovered one kappa on his demarcation. Investigation qua accused Harbilas Singh, Jagmeet Singh alias Gaggu and Manpreet Singh alias Mani has been culminated on 22.02.2021 and a challan in terms of section 173 Cr.P.C. has been submitted in the concerned Court on 04.03.2021. However, the arrest of the petitioner Dhanwant Singh and other co-accused namely Gagandeep Singh is yet to made.

Learned Deputy Advocate General, Punjab, while

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referring to the affidavit filed by the State further submitted that in the meantime father of accused Jagmeet Singh made a written representation to the Senior Superintendent of Police, Faridkot, seeking to proceed against the accused of cross-case registered vide DDR No. 28 dated 5.12.2020 and consequently a Special Investigation Team comprising Superintendent of Police (PBI) District Faridkot, Deputy Superintendent of Police (PBI), Faridkot, and officer incharge of Police Station Sadiq, to carry out further investigation. The SIT undertook a detailed and comprehensive investigation in the light of averments made in the representation filed by Jagmeet Singh alias Gaggu and on 22.6.2021, statements of two material witness namely Surinder Pal Singh son of Shamsher Singh and Kuldeep Singh son of Balwant Singh were recorded and a Medical Board was also constituted and the Medical Board opined that possibility of injury nos. 1 and 2 as result of friendly hand/self suffered/self inflicted cannot be ruled out and circumstantial evidence must be taken into consideration and kind of weapon for injury no. 1 and 2 as already declared provisionally is Firearm, but final opinion will be given by Dr. Daljeet Kaur, after examining the ballistic report, which is not received till date. The SIT in its fact finding report recommended to cancel the cross-version of Jagmeet Singh alias Gaggu and the same has been approved by the Senior Superintendent of Police Faridkot

Learned Deputy Advocate General, further submitted that thereafter investigation with respect to representation given by father of the nominated accused Gagandep Singh was carried out by SP (PBI), Faridkot

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during which statement of Gagandeep Singh was examined which elucidated the presence of Gagandeep Singh near the scene of crime but having no part in the common object of the perpetrator. Moreover, statement of Gagandeep Singh made it certain that the petitioner was present at the spot and actively participated in the incident and fired at deceased Kuldeep Singh. Thereafter, father of petitioner also approached the District Police on 29.5.2021 claiming his son to be innocent. The Senior Superintendent of Police, Faridkot, got the contents of representation inquired through Superintendent of Police (PBI) Faridkot, and during inquiry, the mobile call details of petitioner's phone no. 86528-00002 were obtained and it transpired that the petitioner was present at village Mani Singh Wala at the relevant time and further the petitioner was in contact with another accused Jagmeet Singh few minutes before the occurrence and the accused came to the place of occurrence in Scorpio car owned by the petitioner and his complicity has also been established from the interrogation of other co-accused Jagmeet Singh, Harbilas Singh and Manpreet Singh. Furthermore, the complainant Davinder Singh and witness Navdeep Singh categorically named the petitioner in their statement. Learned Deputy Advocate General, Punjab, further submitted that petitioner is resident of village "Maan Singh Wala" and at the time of occurrence his mobile tower locations were at "Mani Singh Wala" which is a different village and which is adjacent to Sadiq and at a distance of only about half a kilometer. She further submitted that tower location covers large area and therefore, the presence of the petitioner at the place of occurrence is established beyond doubt. She

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further submitted that the argument raised by the learned senior counsel that no injury of firearm was found on the face of deceased cannot become a ground for grant of anticipatory bail to the petitioner in view of the fact that number of other injuries were found on the face of deceased including the lacerated wound and it is also possible that lacerated wounds are caused when intensity of the firearm is not high.

Learned Deputy Advocate General, Punjab, further submitted that the weapon used by the petitioner in the crime is yet to be recovered from him and it is a case where a young married boy aged 35 years had died and the petitioner is specifically named in the FIR and in other statements and therefore, for the purpose of eliciting the truth and for the recovery of weapons used by him, custodial interrogation of the petitioner is required. She further submitted that challan with regard to other co-accused who were arrested has already been submitted before the competent Court and, therefore, she has vehemently opposed the grant of anticipatory bail to the petitioner.

Mr.Sangram Singh Saron, Advocate, who has caused appearance on behalf of the complainant has submitted that the argument raised by the learned senior counsel for the petitioner that no firearm injury has been found on the face of the deceased and that it negates the police version is totally incorrect and against the medical norms. He referred to Modi, a Textbook of Medical Jurisprudence and Taxicology, 24th Edition, 2011, Lexis Nexis Butterworths Wadhwa, Nagpur, wherein, it has been provided in Chapter 24 regarding injuries by Mechanical Violence. The

relevant portion of the same at page No.537 is reproduced as under:-

“Firearm Wounds:- *The injuries produced by the projectiles discharged from fire arms, may present the characteristics of lacerated wounds, but their appearances vary according to the nature of the projectile, the velocity at which it was travelling at the moment of impact, the distance of the firearm from the body at the moment of discharge and the angle at which it struck the part of the body and the part of the body struck.”*

Learned counsel for the complainant further submitted that once during investigation, it has been found on the basis of mobile and tower locations that the petitioner was present in the area, then the plea raised by learned senior counsel for the petitioner that he was not present on the spot cannot sustain and cannot become a ground for the grant of anticipatory bail to the petitioner. He submitted that it is not a case where the plea of alibi is established on the face of it whereas the presence of the petitioner has also been proved on the basis of his tower locations. He further submitted that even eye witnesses have also stated about the role of the petitioner that he had fired shot from his pistol and, therefore, he also has opposed the grant of anticipatory bail to the petitioner.

I have heard the learned counsel for the parties.

The petitioner has been specifically named in the FIR and specific role has been attributable to the petitioner in the FIR that he

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had fired shot from his pistol which hit on the right cheek of deceased Kuldeep Singh. From a perusal of the affidavit filed by the State as well as the argument raised by the learned State counsel as well as petitioner and the complainant, the petitioner does not deserve the concession of anticipatory bail. The submissions of the learned State counsel are based upon the eye witness account and also the other material gathered during investigation including mobile tower locations. Another argument raised by the learned senior counsel for the petitioner that as per the medical report the injuries on the face were by way of blunt weapon is not sustainable in view of the argument raised by the learned State counsel as well as by the learned counsel for the complainant that even if it is lacerated wound on the face but that does not mean that possibility of the use of firearm can be ruled out. Their contention is based upon the Modi, A Textbook of Medical Jurisprudence and Toxicology. The argument raised by the learned senior counsel that the petitioner was not present at the time of occurrence and raising the plea of alibi would also not be sustainable in view of the fact that petitioner is a resident of 'Maan Singh Wala' and at the time of occurrence, he has been found to be at 'Mani Singh Wala' which is a different village but very close to the place where the incident took place i.e. Sadiq and the investigation report as per the learned State counsel would show that these two villages being adjacent to each other, the petitioner was certainly present at the time of incident.

This Court would not like to observe anything on the

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merits of the case as the present petition pertains only to the grant of anticipatory bail. It is the specific stand of the State that custodial interrogation of the petitioner is required because by way of investigation, it has been proved that the petitioner was directly involved in the present offence and recovery of pistol used by the petitioner is yet to be made and various other weapons have already been recovered from the other co-accused who have been arrested. The magnitude of the present case and the gravity of the offence involved would dis-entitle the petitioner for the grant of anticipatory bail.

Therefore, without commenting anything on the merits of the case, this Court is not inclined to grant anticipatory bail to the petitioner and consequently, the present petition is hereby dismissed.

However, anything observed hereinabove shall not be treated as an expression of opinion on merits of the case and is meant only for the purpose of decision of present petition.

November 24, 2021.	(JASGURPREET SINGH PURI)
raj arora	JUDGE
Whether speaking / reasoned	Yes / No
Whether reportable	Yes / No