

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

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| (1) | | CRM-M-17338-2021(O & M) |
| | Balwinder Singh | Petitioner |
| | Versus | |
| | State of Punjab | Respondent |
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| (2) | | CRM-M-17911-2021(O & M) |
| | Sukhdev Singh | Petitioner |
| | Versus | |
| | State of Punjab | Respondent |
| | | |
| (3) | | CRM-M-18702-2021(O & M) |
| | Pargat Singh & others | Petitioners |
| | Versus | |
| | State of Punjab | Respondent |
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| (4) | | CRM-M-19234-2021(O & M) |
| | Harjit Singh & others | Petitioners |
| | Versus | |
| | State of Punjab | Respondent |

Date of Decision:- 20.05.2021

CORAM : HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present: Mr. Satbir Singh Gill, Advocate for petitioners in CRM-M-17338-2021, CRM-M-17911-2021 & in CRM-M-18702-2021

Mr. Gourave Bhayyia Gilhotra, Advocate for petitioners in CRM-M-19234-2021

Mr. Ajay Pal Singh Gill, DAG, Punjab.

Ms. Ishma Randhawa, Advocate for the complainant.

(proceedings conducted through video conferencing)

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GURVINDER SINGH GILL, J . (Oral)

1. This order shall dispose off above mentioned four petitions filed on behalf of Balwinder Singh, Sukhdev Singh, Pargat Singh, Nirmal Singh, Jagraj, Singh, Harjit Singh, Avtar Singh, Harpinder Singh and Saab Singh seeking grant of regular bail in a case registered against them vide FIR No.185 dated 6.7.2020 under Sections 304/307/458/447/511/148/149/188/269/353/186 IPC and Sections 25/27/54/59 of Arms Act, Section 3 of Epidemic Diseases Act and Section 51 of Disaster Management Act at Police Station Beas, District Amritsar.
2. The FIR in question was lodged at the instance of Dilpreet Singh, resident of Dera Baba Ajit Singh Puhla, Baba Bakala Sahib wherein he alleged that he is nephew of Baba Ajit Singh Puhla and that he alongwith his mother Paramjit Kaur, Mandeep Singh and Surinder Kaur reside at their Dera. It is stated therein that litigation is going on between them and one Ranjit Singh pertaining to land of Dera and the matter is presently pending before the Court of Financial Commissioner, Revenue, Punjab, Chandigarh and they had apprehension that Ranjit Singh would attack them so as to take forcible possession of the Dera. As such, they had reported about their apprehension to the police and 15 police personnel were present at the Dera for security. It is alleged that on 5.7.2020, they had gone to sleep in their Dera and in the early hours of morning at about 3:30 a.m., they heard sound of firearm shots and noticed Ranjit Singh, Sahib Singh, Gurdev Singh, Harprit Singh, Harpinder Singh, Nirmal Singh, Nihang Sukha Singh, Sukhdev Singh accompanied by 15-20 other persons who were all armed with sticks and rifles had entered into the Dera and had opened fire recklessly and attacked them with an intention to kill them. The police

personnel present in the Dera tried to stop the accused but the accused even fired at the police party and the police officials saved themselves by taking shelter under a shed. The complainant stated that he in order to save himself and other members of his family fired at the accused from his licensed Double Barrel .12 bore gun and that it could be possible that one of the accused might have got injured and that in case the complainant had not fired then there would have been loss of life on the side of the complainant and his family.

3. It has been submitted by the learned counsel representing the petitioners that a false and concocted version has been put forth in the FIR and that in fact it is a case where none from the complainant party sustained any injury whereas one person from the side of the accused lost his life. It has been submitted that the matter pertaining to the land of the Dera infact stands decided in favour of the accused Ranjit Singh wherein mutation was also ordered to be sanctioned in favour of Ranjit Singh though the complainant party has challenged the same by way of filing an appeal, which is pending. The learned counsel have further submitted that some of the petitioners are not even named in the FIR and have subsequently been nominated as accused either on the basis of some supplementary statement or disclosure statements of co-accused which would hardly carry any evidentiary value.
4. On the other hand, the learned State counsel assisted by counsel for the complainant has submitted that the accused are desperate type of persons as would be evident from the fact that the complainant had been apprehending threat to their lives and infact the police upon finding the threat perception to be genuine had provided him with 15 police personnel for security. The learned counsel has further submitted that the mere fact that some of the

accused were not named in the FIR would be of no consequence inasmuch as the occurrence had taken place during night and at that point of time the complainant was not expected to identify or know the names of all the accused. It has been submitted that it was subsequently during investigation and interrogation that the identity of the remaining accused came to be known.

5. I have considered rival submissions addressed before this Court. It is apparent that there is some kind of dispute over the land of Dera between the complainant and Ranjit Singh. It is further borne out that some incident of violence had indeed been taken place on the night intervening 5.7.2020 and 6.7.2020. The presence of police officials at the spot can also not be denied as the complainant had been provided with security. Though specific allegations are levelled that the accused had fired indiscriminately after entering the Dera but none from complainant's side is stated to be injured. The complainant in the FIR itself has stated that he had also fired from his gun in self-defence and that in case he had not fired he or other members of his family would have been killed. Infact one person from the side of accused was killed. While the counsel for petitioners assert that the complainant had killed the said person, the counsel for complainant disputes the said assertion. The question as regards there being a right of private defence or as to whether the same extended to causing death or not or as to who was the aggressor is a debatable issue which can only be decided after evidence is led. However, the fact remains that none from the side of the complainant sustained any injury. Further, the petitioners have been behind bars for a period of about 9 months and challan already stands presented. The trial in its normal course would consume substantial time as

a large number of witnesses have been cited by the prosecution. In these circumstances, further detention of the petitioners will not serve any useful purpose. The petitioners, in any case deserve to be released on bail on grounds of parity as several other co-accused including main accused have already been granted bail by this Court vide order dated 8.3.2021.

6. Consequently, all the four petitions are accepted and all the petitioners are ordered to be released on regular bail on their furnishing bail bonds/surety bonds to the satisfaction of learned trial Court/Chief Judicial Magistrate/Duty Magistrate concerned.
7. Since the bone of contention in the instant case is the land of Dera and the complainant has always been apprehending threat to his life and property, even before the incident in question, the petitioners would be well advised not to indulge in any kind of lawlessness and to keep away from the Dera in question.
8. It is, however, clarified that none of the observations made above shall be taken to be an expression on merits of the main case.

20.05.2021
(*pankaj*)

(GURVINDER SINGH GILL)
JUDGE

Whether reasoned / speaking? **Yes / No**

Whether reportable? **Yes / No**