

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

1. **CRM-M-20287 of 2021**
Date of Decision:-05.08.2021

Jeet Singh @ Jit Singh

...Petitioner

Versus

State of Punjab

...Respondent

2. **CRM-M-21071 of 2021**

Karnail Singh

...Petitioner

Versus

State of Punjab

...Respondent

CORAM:- HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present:- Mr. G.S. Punia, Sr. Advocate with
Ms. Harveen Kaur, Advocate
for the petitioner in CRM-M-20287-2021.

Mr. G.B.S. Dhillon, Advocate
for the petitioner in CRM-M-21071-2021.

Mr. Saurav Khurana, DAG, Punjab.

Mr. Mohit Garg, Advocate
for the complainant.

(Proceedings conducted through Video Conferencing)

GURVINDER SINGH GILL J.(Oral)

This order shall dispose of the aforestated two petitions filed on behalf of petitioners Jeet Singh @ Jit Singh and Karnail Singh respectively seeking grant of regular bail in a case registered vide FIR No.48 dated 08.05.2020, under Section 302 IPC read with Section 34 IPC, registered at Police Station Sanaur, District Patiala.

The FIR in question was lodged at the instance of Surinder Singh son of Ujagar Singh wherein it is alleged that they have set up a *kup* (wheat chaff mound) in their plot and that in the adjoining plot owned by Jaswant Singh, eucalyptus trees have been sown and who has also been installed an illegal water tap for irrigation of the said trees. It is alleged that the said tap used to remain open, resulting in water overflowing into their plots and damaging the *kup*. The complainant's brother Jarnail Singh had lodged complaint with Jaswant Singh but to no avail. It is alleged that on the day of occurrence i.e. on 08.5.2020 at about 5PM when he alongwith his brother Jarnail Singh went to their plot, they saw that the water was flowing from the tap, installed in the plot of Jaswant Singh. When the complainant's brother protested regarding the same to Jaswant Singh, he gave fist blows to complainant's brother. Jeet Singh, Karnail Singh and Rohi Singh also came at the spot. While Jeet Singh and Rohi Singh pinned down the complainant's brother to the ground by holding his arms, Jaswant Singh and Karnail Singh gave kicks to Jarnail Singh. When the complainant raised alarm, his nephew was attracted to the spot and the assailants ran away from the spot.

Learned counsel for the petitioners have submitted that it is a case where Jaswant Singh (non-applicant) was having dispute with the owner of the neighbouring plot, namely, Jarnail Singh (deceased) and that the petitioners i.e. Jeet Singh, aged 62 years and Karnil Singh, aged 46 years have been falsely implicated. It has been submitted that in fact an application regarding their innocence had also been filed before the higher police authorities and the same was being enquired into when the challan came to be filed and in report under Section 173 Cr.P.C. it was categorically mentioned that the inquiry which was being conducted by the Deputy Superintendent of Police as regards the present petitioners was still pending and that upon receipt of inquiry report, supplementary challan will be presented.

Learned counsel has submitted that a detailed inquiry was conducted in the case and it was found that the petitioners were innocent and that the other two accused had participated in the occurrence. Learned counsel in this regard referred to inquiry report annexed as Annexure P-2. It has been submitted that a supplementary challan under Section 173(8) Cr.P.C. was filed seeking discharge of the two accused i.e. the petitioners but the trial Court declined to discharge the accused holding therein that the police officials had exceeded their jurisdiction in submitting the report under Section 173(8) Cr.P.C. It has been submitted that even as per the FIR none of the petitioners was armed any weapon and that while Jeet Singh is alleged to have held the deceased from his right arm, the petitioner Karnal Singh alleged to have given kick blow. It has been submitted that even if

the said allegations are taken to be true, still the cause of death as per the post mortem report is an injury allegedly received by the deceased is on his head and cannot be attributed to the petitioners.

Opposing the petition, learned counsel for the State assisted by learned counsel for the complainant has submitted that since both the petitioners are specifically named in the FIR and attributed the role of either holding the deceased or giving him kicks, their complicity is clearly evident and that an inquiry report holding them innocent which has not been accepted by the trial Court cannot be made a basis for the benefit of bail to the petitioners. Learned counsel for the complainant has vehemently argued that keeping in view the direct involvement of the petitioners and the nature of allegations which resulted into death of an innocent man, no case for grant of bail is made out.

I have considered rival submissions addressed before this Court.

Though the petitioners are specifically named in the FIR, even if the allegations as levelled in the FIR are taken to be correct, still neither of the petitioner was holding any weapon and the role attributed to them is either of having held the deceased by his arm or by having inflicted kick blows. The DSP in his inquiry has given a clean chit to both the petitioners. Although the Court is not bound by any of the findings reached at by any police officer during inquiry, but having regard to the nature of allegations, the case against the petitioners would be required to be established by leading cogent and convincing evidence establishing their involvement. In

any case the petitioners as on date are stated to have been behind bars for a substantial period of 01 year and 03 months and are not even stated to be involved in any other case. Further detention of the petitioners will not serve any useful purpose as conclusion of the trial will take substantial time since as on date only one out of cited 21 Pws has been examined. The petitions, as such, are accepted and 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.

August 05, 2021
Vijay Asija

(GURVINDER SINGH GILL)
JUDGE

Whether speaking/reasoned
Whether Reportable

Yes / No
Yes / No