

In virtual Court

CRM-M-18932-2020 and other connected cases

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

Date of decision: 19.01.2021

1. CRM-M-18932-2020 (O&M)

Simranjit Singh @ Simarjit Singh @ Simra

... Petitioner

Vs.

State of Punjab

... Respondent

2. CRM-M-27577-2020 (O&M)

Harpreet Singh @ Happy

... Petitioner

Vs.

State of Punjab

... Respondent

3. CRM-M-31124-2020 (O&M)

Dilbagh Singh @ Bagha

... Petitioner

Vs.

State of Punjab

... Respondent

4. CRM-M-36162-2020 (O&M)

Sandeep Singh

... Petitioner

Vs.

State of Punjab

... Respondent

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present: Mr. R.S. Sekhon, Advocate
for the petitioner (in CRM-M-18932 & 27577-2020).

Mr. Jatinderpal Singh, Advocate
for the petitioner (in CRM-M-31124-2020).

Mr. Tarun Sharma, Advocate
for the petitioner (in CRM-M-36162-2020).

Mr. Joginder Pal Ratra, DAG, Punjab.

ARVIND SINGH SANGWAN, J. (ORAL)

Prayer in these four petitions is for grant of regular bail to petitioners Simranjit Singh @ Simarjit Singh @ Simra, Harpreet Singh @ Happy, Dilbagh Singh @ Bagha and Sandeep Singh, in FIR No.0180 dated 15.10.2018 under Sections 395, 397 IPC, Sections 25/27 of Arms Act and Sections 302, 120-B IPC (added later on), registered at Police Station City Muktsar, District Sri Muktsar Sahib.

All the petitioners were arrested on 10.04.2019 and common arguments on behalf of all the petitioners are that they were earlier arrested in

FIR No.43 dated 10.04.2019 under Sections 399, 402 IPC and Section 25/54/59 of Arms Act, Police Station Lohia, District Jalandhar Rural, in which several persons were named and thereafter, on the basis of extra-judicial confession made before one Barish Kumar @ Kala (PW1), who has heard the conversation of the petitioners at a shop about committing the offence, disclosure of the petitioners was recorded in the aforesaid FIR No.43 and thereafter, they were nominated in the present FIR.

Learned counsel for the petitioners submit that as per allegations in the FIR, registered on the statement of complainant Gurcharann Singh, he was working as Supervisor on a petrol pump. On the date of occurrence, he along with deceased Gagandeep Singh, Manager of the petrol pump, were taking Rs.9.90 lacs on a scooter having registration No.PB-03AB-8500. One Narinder Kumar was following them. When they reached at Yadgari Gate, three persons sitting in a car and two persons standing outside, came in front of their scooter and hit the car and both the complainant and Gagandeep Singh fell down. From the said persons, one person fired three shots from the revolver. First fire hit the left leg of complainant Gurcharan Singh and other fire hit on the thigh of Gagandeep Singh. Thereafter, some other persons gave baseball blows to them and they suffered injuries. In that process, the accused persons succeeded in snatching the bag containing Rs.9.90 lacs and ran away in the car. Thereafter, Narinder Kumar call other persons from the petrol pump and got both the injured admitted in the hospital, where Gagandeep Singh died.

Learned counsel for the petitioners further submit that on the basis

of some test identification parade, Gurcharan Singh identified the accused persons, whereas mother of the deceased namely Saroj Rani identified petitioner Dilbagh Singh @ Bagha as a person, who was having acquaintance with her deceased son Gagandeep Singh. It is further submitted that now the statements of two of the prosecution witnesses i.e. PW1 Barish Kumar @ Kala and PW2 Gurcharan Singh, complainant/eye-witness have been recorded. It is stated that PW1 Barish Kumar @ Kala has resiled from his statement that none of the accused has made any extra-judicial confession before him. Learned counsel have relied upon the statement of complainant/eye-witness PW2 Gurcharan Singh, who has specifically stated that he had seen accused Dilbagh Singh @ Bagha, Harpreet Singh @ Happy, Akashdeep Singh @ Akash, Sandeep Singh @ Sandeep, Satnam Singh @ Satta, Simranjit Singh @ Simra through video conference in the Court as well as Saraj Singh-accused, who was present in the Court and they are not the same persons, who were in the Swift car or snatched Rs.9.90 lacs from him and committed murder of Gagandeep Singh or caused injuries to him. Thereafter, the Public Prosecutor requested the Court to declare this witness hostile and he was granted permission to cross-examine this witness. In the cross-examination by the Public Prosecutor, this witness has further denied that he has made any supplementary statement dated 17.09.2019, which was put to him. He further denied that any test identification parade was conducted in his presence and out of 12 persons, PW2 Gurcharan Singh and Saroj Rani identified the accused persons, who were present in the Court. This witness further denied a suggestion that in test identification parade,

he has stated that accused Akashdeep Singh @ Akash fired two shots from his revolver, out of which one hit on the chest of Gagandeep Singh and other hit on the thigh of PW2 Gurcharan Singh. In the cross-examination by the defence counsel, this witness further stated that Narinder Kumar, Sweeper reached the hospital after the occurrence.

Learned counsel for the petitioners have argued that in the absence of any supporting evidence from PW1 Barish Kumar, before whom, the accused persons had made extra-judicial confession and PW2 Gurcharan Singh having not supporting the version, the only evidence against the petitioners is their own extra-judicial confession, which was made in the earlier FIR No.43, therefore, it will be a debatable issue whether the same is admissible or not. It is also argued that the police has not conducted scientific investigation, as no call details of the accused persons, at the time of occurrence was collected to show that they were present at the spot. It is next argued that even there is no report from the FSL to suggest that the licensed arm recovered from Harpreet Singh (licence in favour of his father) was in fact used in the commission of offence. It is thus argued that there is no corresponding FSL report to prove this fact. It is further argued that gun was deposited with armoury, which was recovered by the police.

Learned State counsel, on the basis of affidavit of Inspector Bhupinder Singh, State Crime Zone, Bathinda filed in the Court today, has, however, opposed the prayer for bail on the ground that the petitioners, during the investigation of first FIR, have disclosed about commission of offence. It is

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submitted that the Swift car and a firearm was recovered from the accused persons along with some amount, which was robbed from the victims. However, a perusal of the affidavit shows that there is no reference to any call details/location of the petitioners at the time of incident at the place of occurrence and even there is no reference that the firearm, which was recovered, was ever sent to FSL for seeking opinion that it was used in the commission of offence.

After hearing learned counsel for the parties, without commenting upon merits of the case, going through the affidavit of the Investigating Officer and considering the fact that the petitioners are in custody for the last 01 year and 08 months; PW1 Barish Kumar and PW2 Gurcharan, complainant/eye-witness have not supported the prosecution version, I deem it appropriate to grant regular bail to the petitioners.

Accordingly, all these four petitions are allowed and petitioners Simranjit Singh @ Simarjit Singh @ Simra, Harpreet Singh @ Happy, Dilbagh Singh @ Bagha and Sandeep Singh are directed to be released on regular bail subject to furnishing their bail/surety bonds to the satisfaction of the trial Court/Duty Magistrate/Illaq Magistrate, concerned.

Petitions stand disposed of.

[ARVIND SINGH SANGWAN]
JUDGE

19.01.2021

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Whether speaking/reasoned : Yes/No

Whether Reportable : Yes/No