

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

1. **CRM-M-23878 of 2020 (O & M)**
Date of Decision:-08.11.2021

Jaskaran Singh

...Petitioner

Versus

State of Punjab

...Respondent

2. **CRM-M-5283 of 2020 (O & M)**

Sawinder Singh @ Bhola

...Petitioner

Versus

State of Punjab

...Respondent

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

Present:- Mr. Vipul Jindal, Advocate
for the petitioner in CRM-M-23878 of 2020.

Mr. Brijesh Nandan, Advocate for
Mr. Vikas Gupta, Advocate
for the petitioner in CRM-M-5283 of 2020.

Mr. Ajay Pal Singh Gill, DAG, Punjab assisted by
ASI Charan Singh.

GURVINDER SINGH GILL J.(Oral)

1. This order shall dispose off the above mentioned two petitions filed
on behalf of petitioners Jaskaran Singh and Sawinder Singh @ Bhola

seeking grant of regular bail in respect of a case registered vide FIR No.05 dated 09.01.2018, under Sections 302, 307, 506, 336, 148 and 149 IPC and Section 25 of Arms Act, registered at Police Station Valtoha, District Tarn Taran.

2. The FIR in question was lodged at the instance of Gurpal Singh wherein he has alleged that there was some dispute regarding affixation of the main gate by Gurdyal Singh who was having a house opposite to the house of the complainant as on account of affixation of the gate, a part of the street had been blocked and it had become difficult for tractor-trolley to pass through the same. It is further alleged that although efforts were made to resolve the matter with the help of respectables but to no avail. The complainant alleged that on 9.1.2018, the accused went to the terrace of their house and started throwing brick-bats and stones towards the house of the complainant and also fired at them. The allegations as levelled in the FIR qua each of the accused may briefly be stated as follows :-

Sr. No.	Name of accused	Attribution
1	Gurdyal Singh son of Surjit Singh, resident of Village Gharyala, Tehsil Patti, District Tarn Taran (in custody)	He was armed with pistol 32 bore and is alleged to have fired at Sukhdev Singh, who died at the spot.
2	Sawinder Singh @ Bhola son of Surjit Singh, resident of village Gharyala, Tehsil Patti, District Tarn Taran (in custody)	Fired in air with his armed 315 bore Rifle and none was injured at the hands of Sawinder Singh.
3	Harmanpreet Kaur daughter of Gurdyal Singh, resident of village Gharyala, Tehsil Patti, District Tarn Taran (She was declared innocent during the investigation).	Fired with her armed 32 bore pistol hitting Jorawar Singh.

4	Jaskaran Singh son of Sukhwinder Singh @ Sukhdev Singh. (in custody)	Fired with his armed 32 bore pistol hitting Jorawar Singh.
5	Deban Pardhan son of Anoop Singh. (He was declared innocent during the investigation).	He had thrown brick bats.
6	Simranjit Singh @ Sibbu son of Gurdev Singh. (He was declared innocent during the investigation).	He had thrown Brick bats.
7	Gursharan Singh @ Babbu son of Raj Singh. (He was declared innocent during the investigation).	He had fired with his pistol but none was injured.
8	Vikramjit Singh @ Nanda son of Tilak Raj, resident of Patti, District Tarn Taran. (He was declared innocent during the investigation).	He had thrown brick bats.

3. The learned counsel for petitioner-Jaskaran Singh has submitted that it is a case of mistaken identity inasmuch as while the accused mentioned in the FIR is Jaskaran Singh son of Sukhdev Singh whereas the petitioner is Jaskaran Singh son of Sukhwinder Singh and that infact the complainant, when examined in the witness box, has given a clean chit to the petitioner while specifically stating that the petitioner is not the same Jaskaran Singh who had fired at him.

4. The learned counsel representing petitioner Sawinder Singh @ Bhola has stated that even if the allegations as levelled in the FIR are taken to be correct, the only role attributed to him is that he had fired in the air. It has further been submitted that in any case the petitioner Sawinder Singh has been behind bars since the last about 3 years 9 months and 5 days and is not even involved in any other case.

5. Opposing the petitions, the learned State counsel has submitted that

the accused-Jaskaran Singh is a habitual offender having been involved in as many as 6 other cases and that the question as regards his identity would be examined by the trial Court at the stage of final hearing. The learned State counsel has submitted that since the petitioner Sawinder Singh @ Bhola was also accompanying the other accused and was also carrying a weapon and is alleged to have fired, even though he had not hit anybody, his complicity is clearly evident and he does not deserve any concession of bail. The learned State counsel has informed that the petitioner Jaskaran Singh as on date has been behind bars since the last 1 year and 11 ½ months and the petitioner Sawinder Singh @ Bhola has been behind bars since the last about 3 years, 9 months and 5 days. The learned State counsel has also informed that the petitioner Sawinder Singh @ Bhola is not involved in any other case and that as on date only 1 out of the cited 41 PWs has been examined.

6. I have considered rival submissions addressed before this Court.

7. As far as the petitioner Jaskaran Singh is concerned, there indeed appears to be some kind of confusion as regards his identity. Infact the complainant Gurpal Singh, while in the witness box has categorically stated that the accused Jaskaran Singh present in the Court is not the Jaskaran Singh who had fired at the complainant party. The learned counsel for the petitioner – Jaskaran Singh has today passed on a certified copy of the statement of PW-1 Gurpal Singh recorded by the trial Court on 18.10.2021, which is taken on record.

8. In these circumstances, when the complainant himself has virtually given a clean chit to petitioner Jaskaran Singh who in any case has been

behind bars since the last 1 year and 11 ½ months, he deserves the concession of bail.

9. As far as the petitioner Sawinder Singh @ Bhola is concerned, although he is alleged to be carrying a weapon but allegations against him are mainly to the effect that he had fired in the air. In any case, he has been behind bars for a substantial period of 3 years and 9 months. The petitioner Sawinder Singh @ Bhola is not stated to be involved in any other case. Conclusion of trial is likely to consume time as till date only 1 out of the cited 41 PWs has been examined. In these circumstances, further detention of the petitioners will not serve any useful purpose.

10. Both the petitions 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.

November 08, 2021
Vijay Asija

(GURVINDER SINGH GILL)
JUDGE

Whether speaking/reasoned
Whether Reportable

Yes / No
Yes / No