

205

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

CRM-M-29908-2021

Date of decision : 09.11.2021

Sajjan Singh

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mrs. G.K. Mann, Sr. Advocate with
Mr. Gursewak Singh, Advocate for the petitioner.

Mr. A.K. Kaundal, DAG, Punjab.

Mr. Sidhant Vermani, Advocate for the complainant.

VIKAS BAHL, J. (ORAL)

Prayer in the present petition is for grant of regular bail to the petitioner in FIR No.345 dated 23.12.2020 registered under Sections 302/307/506/34 of the Indian Penal Code, 1860 (hereinafter to be referred as “the IPC”) and Sections 25/27/54/59 of the Arms Act, at Police Station Chattiwind, District Amritsar Rural.

The FIR has been registered on the statement of Mandeep Kaur who had stated that on 22.12.2020, her husband namely Manpreet Singh had gone to Village Varpal, where the petitioner met her husband- Manpreet Singh and made a complaint to him regarding the defective

servicing of the Air Conditioner installed in his house and in anger, gave beatings to the said Manpreet Singh, who, after that, came back home and informed about the entire incident to the respectables of the village who then told the said Manpreet Singh and Mandeep Kaur that they will call Sajjan Singh (petitioner) in the Panchayat on the next date and on the next date, the complainant alongwith her husband and other persons from her family went to the respectables of the Panchayat, where the respectables of the Panchayat sent messages to the present petitioner again and again to come present before the Panchayat but the petitioner did not come and on account of the same, the complainant, her husband namely Manpreet Singh, her brother namely Angrej Singh (since deceased), her brother-in-law namely Lovepreet Singh @ Lalli and two brothers-in-law namely Sukhraj Singh @ Sunny and Gurpreet Singh @ Rana, alongwith other family members, reached the main gate of petitioner's house for complaining regarding the abovesaid, where the petitioner and his son were already standing at the gate and the said Jaskaran Singh @ Jassu, who is son of the petitioner, went inside the house and got a 12 bore gun and fired a direct shot towards the complainant party with the intention to kill and one of the fire shots hit the right eye and face of Angrej Singh (deceased) and some pellets also hit the complainant's brother-in-law namely Lovepreet Singh. The allegation against the present petitioner was that he had fired in the air.

A cross-version was also recorded vide DDR No.18 dated 09.03.2021 under Sections 452/427/506/148/149 of the IPC on the

statement of Salwinder Kaur, wife of the petitioner, to the effect that the deceased, alongwith the complainant and a large number of other persons, had come towards the house of the petitioner, where they all had picked up iron sabbal/rods, brickbats from the flour mill adjoining the gate of the petitioner and started breaking the things and they entered into the house of the petitioner and the said persons broke the window AC as well as Pajero car, which was in the house of the petitioner. In order to save themselves from the mob/crowd, the petitioner and his son had fired the said shots.

Learned counsel for the petitioner has submitted that even as per the version given by the complainant-Mandeep Kaur, it is apparent that the complainant party had come to the house of the petitioner and there were large number of persons who were present in the complainant party. It is further submitted that even as per the said version, the petitioner has not been alleged to have caused any injury as he is only stated to have fired in the air. It is argued that even from the version given by the complainant, it is apparent that the complainant party was the aggressor. It is further argued that as per the version given by the wife of the petitioner, for which the complainant party in the FIR is being proceeded against, under various Sections including Section 452 of IPC i.e. commission of house-trespass, the complainant party had in fact, entered the house of the petitioner, having rods and brickbats and thus, it was only while exercising the right of the private defence that the incident had taken place.

Learned counsel for the petitioner has relied upon Section 100 of the IPC in order to state that in such a case, moreso when there is apprehension that the mob/crowd could have either caused death or grievous hurt to the petitioner and his family, then the action taken by the son of the petitioner and the petitioner would come within the meaning of “Private Defence” as stated in Section 100 of the IPC. It is also stated that in the present case, the petitioner has been in custody since 23.12.2020 and the challan has been filed and there are as many as 26 witnesses which are yet to be examined and thus, the conclusion of trial is likely to take time, moreso in view of the COVID-19 pandemic and the present petitioner is not involved in any other case.

On the other hand, learned counsel for the State and the complainant have opposed the present petition for grant of concession of regular bail to the petitioner and have submitted that the question i.e. as to whether the said act was done while exercising the “right of private defence” or not, cannot be considered at the present stage as the same can only be considered at the time of trial. It is further submitted that the two injuries which have been caused to the deceased, one on the eye and the other on the face, have been attributed to Jaskaran Singh, co-accused and some pellet injury had also been caused to Lovepreet Singh by Jaskaran Singh. It is stated that in the present case, eye-witnesses have not been examined as yet and thus, the petitioner does not deserve the concession of regular bail.

This Court has heard the learned counsel for the parties and

has perused the paper book.

In the present case, even as per the version given by the complainant, it is prima facie apparent that it is the complainant alongwith a large number of other persons, who had gone to the house of the petitioner. It is further apparent that the petitioner, even as per the said version, had not given any injury to any person and had only fired a shot in the air. As per the version of the petitioner's wife, it was the complainant, who alongwith a large number of persons, had entered the house of the petitioner and it was stated that they were also carrying iron rods and brickbats and had then started breaking the things and had entered into the house of the petitioner and in fact, had even broken the Window AC and also caused damage to the Pajero Car of the petitioner. The complainant party is thus, being proceeded against under Sections 452, 427, 506, 148, 149 of the IPC.

In view of the said circumstances, where, even as per the complainant's case, the complainant party had gone to the house of the petitioner, whether the petitioner would be entitled to raise a plea of "Right of Private Defence" as stated in Section 100 of the IPC or not, would be a matter of trial, but keeping in view the facts and circumstances, moreso the fact that the offence under Section 452 of the IPC is prima facie being made out against the complainant party, even as per the prosecution version, and also the fact that the present petitioner has not been alleged of having inflicted any injury and is only stated to have fired in the air and is not involved in any other case and also the fact

that the challan in the present case has been filed and there are 26 witnesses out of which none has been examined as yet and the conclusion of the trial is likely to take time, moreso in view of the COVID-19 pandemic and the petitioner has been in custody since 23.12.2020, this Court deems it appropriate to grant the concession of regular bail to the petitioner.

Thus, the present petition for regular bail is allowed and the petitioner is directed to be released on bail on his furnishing bail bonds/surety bonds to the satisfaction of the concerned trial Court/Duty Magistrate and subject to him not being required in any other case.

However, it is made clear that in case, any act is done by the petitioner to threaten the complainant or any of the witnesses, then it would be open to the State to move an application for cancellation of bail granted to the petitioner.

Nothing stated above shall be construed as an expression of opinion on the merits of the case and the trial would proceed independently of the observations made in the present case which are only for the purpose of adjudicating the present bail application.

09.11.2021*Pawan***(VIKAS BAHL)
JUDGE****Whether speaking/reasoned:-****Yes/No****Whether reportable:-****Yes/No**