

211 (3 cases)

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

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Date of Decision: 19.01.2021

1. CRM-M-18856-2020

Harinder Singh

....Petitioner

Versus

U.T., Chandigarh

....Respondent

2. CRM-M-25855-2020

Bahadur Singh

....Petitioner

Versus

U.T., Chandigarh

....Respondent

3. CRM-M-25704-2020

Sewak

....Petitioner

Versus

U.T., Chandigarh

....Respondent

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: Mr. Preetinder S. Ahluwalia, Advocate for the petitioner
in CRM-M-18856-2020.

Mr. Ramandeep Singh Gill, Advocate for the petitioner
in CRM-M-25855-2020

Mr. H.S. Batth, Advocate for the petitioner
in CRM-M-25704-2020.

Mr. Sukant Gupta, Additional P.P., U.T., Chandigarh.

Avneesh Jhingan, J. (Oral)

The matter is taken up for hearing through video conference due to COVID-19 situation.

These are three petitions emanating out of FIR No. 102, dated 31st May, 2020 under Sections 452, 307 and 34 of the Indian Penal Code, 1860 ('IPC') (Sections 120-B and 212 of IPC added later on) and Sections 25 and 27 of the Arms Act, 1959, registered at Police Station South Sector 34, Chandigarh. Two are filed by Harinder Singh and Bahadur Singh for anticipatory bail and one by Sewak for regular bail.

FIR is at the instance of Arvind Singla (complainant) who is a liquor contractor and having vends in Chandigarh as well as in Punjab. His brother Rakesh Singla is residing near his house. The complainant has been provided P.S.O. by the Punjab Police and there are private security guards at the gate of his house. On 31st May, 2020 at about 5:30 P.M., four youngsters came and asked the security guards that they wanted to meet complainant. When told that complainant was not at home they went away. Little later, a telephonic message was received from the mother of the complainant that four boys have open fired at the house of Rakesh Singla. They tried to target Rakesh Singla who escaped by entering into the house and the boys fled the scene in the car.

During the investigation, it transpired that shooting incident

was conspired by gangster Lawrence Bishnoi who planned the attack to spread fear among the business community. During investigation, 16 accused were nominated and various roles were attributed.

Mr. Preetinder S. Ahluwalia, appearing for the petitioner in CRM-M-18856-2020 argues that petitioner is not named in the FIR. Even as per the case set up he was neither the shooter nor the planner; his name came in a disclosure statement; no recovery is to be made and the allegations are that he arranged weapons whereas weapons were handed over by Bharam Dutt to the shooters. He contends that petitioner has joined the investigation and answered the questionnaire given to him. He was nominated with the help of Section 120-B of IPC.

Mr. Ramandeep Singh Gill, learned counsel for the petitioner in CRM-M-25855-2020, submits that petitioner has been falsely implicated. He states that vehicle owned by his father which was allegedly used for the incident has been released and apart from the disclosure statement, there is nothing against the petitioner.

Mr. H.S. Batth, learned counsel for the petitioner in CRM-M-25704-2020 submits that petitioner was named in the disclosure statement; there is no other evidence; allegations are that he provided car to one Gurdeep Singh @ Babu; petitioner is behind bars since 3rd June, 2020; challan has been presented and no useful purpose would be served by keeping him behind the bars.

Mr. Sukant Gupta, Additional P.P., U.T., Chandigarh relies upon pleadings of reply filed. He submits that the shooting incident was

a deep rooted conspiracy to spread fear among the business community in Chandigarh and Punjab thereby ensuring protection money from the businessmen. He relies upon a flow chart drawn in the reply to submit that Lawrence Bishnoi was the master mind who in spite of being in Rajasthan Jail contacted Deepu Banur who was in Ambala Jail. Thereafter, five shooters; two by Deepu Banur and three by Lawrence Bishnoi were selected to carry out the attack. It was a well organized and planned act for which nominated persons did *reiki*, provided vehicles, arranged weapons for the shooters and provided shelter after the shooting incident. He further submits that there is an eye-witness Iqlakh Khan, who was deputed as security guard at the gate, he identified some of the shooters. Further, there is a CCTV footage available of the shooting incident. He submits that 17 empty cartridges were recovered from the site. There are call details which co-relate some of the nominated accused. He, on instructions from SI Vijay Kumar, submits that Harinder Singh and Bahadur Singh after grant of interim bail have joined the investigation but are not cooperating. He submits that five nominated accused are at large and P.O. proceedings are pending against one of them, for this reason investigation could not be completed.

Learned counsel for the petitioners rebut the contention of learned State counsel by stating that incident is of May, 2020 till date apart from disclosure statement there is no other evidence. The submission is that challan has been presented against the arrested

persons. It is argued that the apprehension of witnesses being influenced is baseless. The petitioners were named in the disclosure statement given by accused who is already arrested. The further argument is that for an incident of no injury, a large net is made to include 16 nominated persons which makes the conspiracy theory doubtful. They further submit that no call details are available vis-a-vis these petitioners.

The firing incident happened in Chandigarh and recovery of 17 empty cartridges are an indicator of the magnitude of the incident. It was by chance that none was injured but that itself will not undermine the happening. The fact remains that in spite of passing of almost seven months, five of the nominated accused have not been arrested which resulted in hampering the investigation.

From the pleadings, it is evident that in spite of the fact that certain persons were confined in Jail yet they were able to get mobile phones and use WhatsApp to conspire and carry out such attack. The alleged roles of the petitioners of providing help for carrying out the attack cannot be under estimated by their non-presence. Without the support the attack may not have been possible. There is recovery of mobile phone and one SIM card from Deepu Banur which he chewed. As per learned counsel for the U.T., Chandigarh, the SIM card is to be sent to the lab for further analysis. It would not be appropriate at this stage to dwell upon the evidentiary value of the disclosure statement. It would be pertinent to note that in these cases Section 120-B IPC has

been invoked. To complete the chain and to have a deeper probe, custodial interrogation of Harinder Singh and Bahadur Singh is necessary.

The contention of learned counsel for the petitioners that no recovery is to be made and that challans have presented for the arrested persons do not enhance their case for bail. There are at least five co-accused who are at large, for the said reason, investigation is not concluded. The presentation of challans for the arrested persons may not indicate finalization of their roles so long as investigation is being carried out. The grant of interim bail to Harinder Singh and Bahadur Singh and their joining investigation has not served purpose as they are not cooperating in the investigation.

The Supreme Court in **State Represented by the C.B.I. Versus Anil Sharma, (1997) 7 SCC 187**, held as under:-

“We find force in the submission of the CBI that custodial interrogation is qualitatively more elicitation oriented than questioning a suspect who is well ensconced with a favorable order under Section 438 of the code. In a case like this effective interrogation of suspected person is of tremendous advantage in disinterring many useful informations and also materials which would have been concealed. Succession such interrogation would elude if the suspected person knows that he is well protected and insulated by a pre-arrest bail during the time he interrogated. Very often interrogation in such a condition would reduce to a mere ritual. The argument that the custodial interrogation is fraught with the danger of the person being subjected to third degree methods need not be countenanced, for, such an argument can be advanced by all accused in all criminal cases. The court has to presume that responsible Police Officers would conduct themselves in task of disinterring offences would not conduct themselves as offenders.”

The petitioners may not have been named by any witnesses but the fact remains that as per the allegations leveled, they would be in a position to influence other co-accused or the witnesses. In the facts of the present case, custodial interrogation of the petitioners may be necessary to take investigation to its logical end.

The petitions are dismissed.

However, it is clarified that nothing stated hereinabove shall be construed as an expression of opinion on the merits of the case.

Photocopy of this order be placed in the files of connected petitions.

(AVNEESH JHINGAN)
JUDGE

19th January, 2021
pankaj baweja

Whether speaking/reasoned	Yes
Whether reportable	Yes