

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

**CRM-M No.28421 of 2020 (O&M)
Date of Decision: 27.04.2021**

Amandeep Singh

.....Petitioner

Vs

State of Punjab

.....Respondent

CORAM: *HON'BLE MR. JUSTICE RAJ MOHAN SINGH*

Present: Mr. J.S. Bedi, Sr. Advocate with
Mr. S.S. Brar, Advocate
for the petitioner.

Mr. Joginder Pal Ratra, D.A.G., Punjab.

Mr. S.S. Kamboj, Advocate
for the complainant.

RAJ MOHAN SINGH, J.

The case was taken up for hearing through video conferencing.

CRM No.12246 & 12078 of 2021

[1]. For the reasons mentioned in the applications, the same are allowed. Accompanying documents are taken on record, subject to all just exceptions.

CRM-M No.28421 of 2020 (O&M)

[2]. Petitioner seeks grant of regular bail under Section 439 Cr.P.C in case bearing FIR No.47 dated 20.02.2020, registered under Sections 302, 34 IPC and Sections 25/30 of the Arms Act at Police Station Civil Lines, Patiala.

[3]. The FIR was registered at the instance of complainant-Darshan Singh with the allegations that his youngest son Simranjit Singh was working as Special Contingent in Electricity Board, Head Office, Patiala. He often used to go to play volleyball with his friend Amrik Singh, who was also working in PSPCL. On 19.02.2020 at about 6.00 P.M., son of the complainant had gone on his motorcycle for playing volleyball. He did not return till late night. The complainant along with his son Sukhjit Singh went to search Simranjit Singh in volleyball ground. When they went ahead of Mata Gujri College, they saw the motorcycle of Simranjit Singh was lying fallen on the main road and Simranjit Singh was also lying fallen down at a short distance. His friend Amrik Singh was also lying fallen down at a short distance. Both of them had gun shots in their heads. Blood was oozing out from the head of Simanjit Singh and from the head and abdomen of Amrik Singh. Both had died and empty cartridges of 12 bore rifle were lying there. FIR was lodged against unidentified persons.

[4]. During course of investigation, the Police recorded the statements of Rajesh Bahadur, Gurdeep Singh Basati, Balkar Singh son of Darshan Singh and Amandeep Kaur wife of deceased Amrik Singh under Section 161 Cr.P.C.

[5]. According to the statement of Rajesh Bahadur, he is running a dhaba in a rented shop for the last about 10 years. He also runs rehri (cart) for selling *momos*, where his wife and daughter-in-law used to sell *momos*. Children and wife also used to help him in the dhaba. Persons living in PGs used to deposit advance money with Rajesh Bahadur in order to take meals at his dhaba. On 16.02.2020, co-accused Manraj Singh came to his dhaba along with his father and told him that they had come recently for living in the PG and they will eat meals daily. He deposited an amount of Rs.500/- with Rajesh Bahadur. Two employees of electricity board namely Amrik Singh and Simranjit Singh often used to come to his dhaba after playing volleyball and they used to eat eggs etc. On 19.02.2020 at about 10.00 P.M., Amrik Singh, Simranjit Singh and another boy came to dhaba and sat on the wooden cot behind rehri of *momos*. In the meantime, Manraj Singh and his father Amandeep Singh also came to dhaba. Father of Manraj Singh i.e. the petitioner entered inside the dhaba and Manraj Singh went to *momos* rehri and wished *namaste* to the wife of Rajesh

Bahadur by calling her aunty. Amrik Singh objected to the word aunty and asked him to call her as *Bhabhi*. Manraj Singh insisted that he would call her aunty only. They had some arguments. Manraj Singh started telling his father about the same, who was sitting inside the dhaba. Thereafter father of Manraj Singh came out of dhaba and started persuading Amrik Singh etc. They had a quarrel in which father of Manraj Singh i.e. the petitioner suffered injuries on his face and blood started oozing out from his face. Rajesh Bahadur and Gurdeep Singh Basati separated them from quarreling. Manraj Singh went away after taking his father along with him. Shoes of Manraj Singh had fallen there in the street.

[6]. The witness further stated that he closed rehri and called his family members at the dhaba. Amrik Singh, Simranjit Singh and Gurdeep Singh Basati sat inside the dhaba and ate egg *bhurji* and also consumed cold drinks. Thereafter all the three moved out. Simranjit Singh started the motorcycle and Amrik Singh sat behind him. Gurdeep Singh Basati gave money to Rajesh Bahadur. In the meanwhile, the witness Rajesh Bahadur heard the noise of firing shots in the street and became scared and put down the shutter of the shop. Numbers of shots were fired outside and the witness did not come out due to fear. When he heard voices of other people in the street, then he saw

that Simranjit Singh and Amrik Singh were lying in the pool of blood near the motorcycle. The witness became frightened and went home after closing the dhaba. The statement of the witness was recorded under Section 161 Cr.P.C. on 20.02.2020.

[7]. Statement of Gurdeep Singh Basati was recorded under Section 161 Cr.P.C. on 24.02.2020, wherein he stated that he used to play volleyball from 7.00 P.M. to 10.00 P.M. They had arranged lights also. On 19.02.2020, he had gone to play volleyball at about 6.30 P.M., where Simranjit Singh, Amrik Singh and others were present in the volleyball ground and there was strong wind on that day. They could not play till 10.00 P.M. They kept on sitting in the ground and thereafter started their vehicles for going to their house(s). The witness was on the motorcycle of Simranjit Singh and Amrik Singh. All the three reached Nepali dhaba for having some meal. Amrik Singh and Simranjit Singh sat on the wooden cot behind the *momos* rehri run by Nepali outside the dhaba. The witness also stood along with them near the *rehri*. In the meanwhile, one young boy along with one middle aged person came to the dhaba. Middle aged person went inside the dhaba and the other youth came to *rehri* and wished the wife of Nepali by calling her aunty. Amrik Singh objected to it and asked him to call her Bhabhi, whereupon the

youth insisted in calling her as aunty only. There was some argument. The youth went inside the dhaba and called his father. His father came and asked Simranjit Singh and Amrik Singh that why they were misbehaving with his son. They had a quarrel. The middle aged person suffered injuries on his face and blood started oozing out from his mouth. The witness and the owner of Nepali dhaba separated them from quarreling. The youth and his father went away from the spot. Shoes of the youth were lying at the spot as the same were bloodstained. All the three went inside the dhaba and they came to know that name of the youth was Manraj Singh. All the three ate egg bhurji and also consumed cold drinks. Thereafter, Simranjit Singh started bullet motorcycle and Amrik Singh sat as pillion rider.

[8]. The witness further stated that he gave money to dhaba owner. In the meantime, Manraj Singh came from opposite side of dhaba with a gun in his hand. On seeing him, Simranjit Singh started motorcycle. Manraj Singh fired shot upon Simranjit Singh and Amrik Singh. Both fell down from the motorcycle. Manraj Singh started indiscriminate firing. In the meantime, three persons came on a scooter from the side of liquor vend. One person alighted from the scooter and came to Manraj Singh. On hearing fire shots, those scooter borne youths fled away. The person, who had come after alighting the scooter

was father of Manraj Singh i.e. Amandeep Singh. Manraj Singh fired number of shots on Simranjit Singh and Amrik Singh. Father of Manraj Singh asked him to check, so that they may not escape. Manraj Singh checked with torch of mobile phone and after finishing them, both went towards 24 number *Phatak* along with the weapon. The witness was frightened and he went home. The witness saw family members of Simranjit Singh going towards place of occurrence and he thought that they might have received information regarding the incident. The witness did not tell anything to them regarding the incident.

[9]. Statement of Amandeep Kaur wife of deceased Amrik Singh was also recorded to the effect that she was posted BDPO in Panchayati Raj Department. Her husband Amrik Singh was serving in Electricity Board. On 19.02.2020, her husband went along with friend to play volleyball, but did not return till 11/11.30 P.M., then at about 12.00 A.M. in the night, Simranjit Singh's father Darshan Singh along with some other persons came to her house and informed that some unidentified persons had murdered Simranjit Singh and Amrik Singh near Nepali dhaba by firing shots. The witness informed her father in this regard. Father and other relatives came to her house at about 2.00 A.M. After post mortem, her husband was cremated. She came to know that the boy namely Manraj Singh and his father

had murdered her husband and Simranjit Singh. On 25.02.2020 in the evening, she along with her children was alone at her house. Two persons came to her house on motorcycle. The witness thought that some persons have come to express their grief over the death of her husband. She made them to sit in the room of her house. The youth was aged 20-21 years and other person was aged about 45/46 years. They told her that they had committed big mistake and the whole incident occurred due to sudden rush of blood and they had no personal enmity with Amrik Singh and Simranjit Singh. They were ready to financially help the witness and the family of Simranjit Singh in every manner. They talked about the compromise. The boy told his name as Manraj Singh and his father's name as Amandeep Singh. The witness was in shock at that time and got panicked. The witness told them that she would tell them after *bhog* of Amrik Singh. Thereafter those persons went away.

[10]. The Police also recorded the statement of Balkar Singh on 27.02.2020 to the effect that he was working as Halqa Incharge of Halqa Samana of Aam Aadmi Party. On 26.02.2020, he was present in his house. Manraj Singh, who had associated with his party in the last election came to him and stated that he was to talk with him some important matter in isolation. The witness made him to sit in the outer room of his house an

enquired from him, whereupon Manraj Singh stated that on 19.02.2020 he and his father had gone to Nepali dhaba where the occurrence took place. Now his father had gone somewhere without disclosing to him and police was looking for him. He requested that the witness should intervene and produce him before the Police so that he may be saved from the beatings. The witness told that he would enquire the whole case and talk about the matter. The witness asked Manraj Singh to meet him on the next day at 11.00 A.M. Manraj Singh met him at Samana at given time and the witness enquired about the whole incident. Manraj Singh admitted his guilt and the witness took Manraj Singh to produce him before the Police. The Police effected recovery of .12 bore double barrell gun with ammunition from Manraj Singh.

[11]. Learned counsel for the petitioner by referring to the statement of PW-8 Gurdeep Singh Basati submitted that the witness has made lot of improvements in his statement and he was successfully confronted with earlier statement made under Section 161 Cr.P.C. He further submitted that at the time of arrival of the petitioner at the spot, Amrik Singh and Simranjit Singh had already died. The witness Gurdeep Singh Basati is an Advocate and his statement was recorded only after four days of the occurrence and his presence at the spot was

doubtful. On the issue of calling wife of dhaba owner as bhabhi, the mindset of Amrik Singh and Simranjit Singh was ventilated. The deceased gave beatings to the father of petitioner and on seeing the blood oozing out from face of the petitioner, Manraj Singh killed Amrik Singh and Simranjit Singh in a rush of blood. Petitioner appeared only after the occurrence and the witness has made improvements to allege that they were alive and it was only on the instigation of the petitioner, both were killed in order to ensure that they may not be left alive. The insertion made by the witness in his statement that Manraj Singh asked Amrik Singh to feel sorry to his father was an improvement because Amrik Singh was unable to move or speak in any manner as he has already died. The witness while coming from place of occurrence saw family members of Simranjit Singh going towards the place of occurrence, but he did not disclose anything to them despite knowing them fully. No complaint was made by the witness to the Police at any point of time and his statement was recorded only under Section 161 Cr.P.C., that too after four days of the occurrence.

[12]. Learned counsel further submitted that statements of Rajesh Bahadur and Gurdeep Singh Basati recorded under Section 161 Cr.P.C., would not advance the case of the prosecution against the petitioner, who was injured at the hands

of the deceased and his alleged presence was shown only after the death of the deceased at the hands of Manraj Singh. Gurdeep Singh Basati was confronted and cross-examined successfully to project a case of improvement from his earlier version recorded under Section 161 Cr.P.C.

[13]. Learned counsel further submitted that the statements of Amandeep Kaur and Balkar Singh were recorded under Section 161 Cr.P.C. and even their statements if made before the Court would not advance the case of prosecution qua the complicity of the petitioner. The extra-judicial confession is a weak type of evidence. The mode of confession to a person with whom the accused had no relation cannot be relied upon to convict a person. Learned counsel by relying upon **Kala @ Chanderkala vs. State through Inspector of Police, 2016(4) R.C.R. (Criminal) 141** and **Charan Singh vs. State of Punjab, 2007(3) R.C.R. (Criminal) 781** submitted that extra-judicial confession made before a stranger is no confession in the eyes of law. It was a blind murder and the prosecution has failed to connect the complicity of the petitioner qua the alleged occurrence.

[14]. Learned counsel further submitted that petitioner has not played any role in the commission of alleged crime, rather he was victim of attack which was opened by the deceased

resulting in injuries on his face. There was no extra-judicial confession against the petitioner. No recovery was effected from him. Petitioner is in judicial custody and he was arrested on 26.06.2020.

[15]. Per contra, learned State counsel duly assisted by learned counsel for the complainant opposed the bail on the ground that the petitioner played active role in the murder of Amrik Singh and Simranjit Singh as he had arrived at the last moment and ensured that both are killed by Manraj Singh.

[16]. In view of material on record, complicity of the petitioner viz-a-viz. his presence at the spot at the time of occurrence would remain debatable. Nothing has been recovered from him. The main allegations are against his son Manraj Singh, who is in custody.

[17]. Taking into consideration the facts and circumstances of the case at this stage and without adverting to the merits of the case, I deem it appropriate to enlarge the petitioner on regular bail.

[18]. In view of above, petition is allowed. Petitioner is ordered to be released on bail, subject to his furnishing adequate bail bonds/surety bonds to the satisfaction of the trial Court/concerned Duty Magistrate.

[19]. Nothing expressed hereinabove would be construed to be an expression of any opinion on merits of the case.

April 27, 2021	(RAJ MOHAN SINGH)
<i>Atik</i>	JUDGE
Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No