

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

**CRM-M No.37934 of 2020
Date of Decision : 06.01.2021**

Mohinder Singh

.....Petitioner

Versus

State of Punjab

.....Respondent

CORAM : HON'BLE MR. JUSTICE SUDIP AHLUWALIA

Present : Mr. Manbir S. Basra, Advocate
for the Petitioner.

Mr. B.S. Sewak, Addl. Advocate General, Punjab
for the Respondent/State.

SUDIP AHLUWALIA, J. (ORAL)

The instant Petition has been filed under Section 439 of the Code of Criminal Procedure seeking Regular Bail on behalf of the Petitioner in case FIR No.25, dated 19th June, 2019, registered under Sections 302/34 of the Indian Penal Code, 1860 and Sections 25/27/54/59 of the Arms Act, 1959 at Police Station Behrampur, District Gurdaspur.

2. Ld. Counsel for the Petitioner submits that his Client has been falsely implicated in the case and has remained in detention for more than 1½ years since 20th June, 2019.

3. It may be mentioned that the FIR was lodged on the Complaint of one Gulshan Saini, sister of the deceased Tehal Singh,

who was allegedly killed in the night of 18th June, 2019 by the Petitioner's brother Jasbir Singh with the active aid and abetment of the Petitioner himself. According to the FIR, after the Complainant's brother had not returned home from his nightly outing as usual till 9.30 PM. She therefore searched for him and reached the Poultry Farm of one Prince Saini resident of Village Niamata, where she found her brother to be arguing with the Petitioner and his brother Jasbir Singh. A scuffle then ensued between them, after which the Petitioner allegedly asked his brother Jasbir Singh to shoot the Complainant's brother. Jasbir Singh thereafter took out a pistol from his right *dab* and fired a shot at the victim-Tehal Singh which hit on his abdomen. When the Complainant raised a hue and cry both the culprits (the Petitioner and his brother) ran away from the spot with their weapons. The Victim was taken by the Complainant and Prince Saini to the Civil Hospital, Gurdaspur where he was declared dead.

4. Ld. Counsel for the Petitioner has highlighted that the only allegation imputed to his Client is of having raised *lalkara*, to allegedly incite his brother Jasbir Singh to shoot the Victim. His submission in this regard is that the plea of *lalkara* is essentially an 'embroidery technique' to falsely implicate an innocent person.

5. To substantiate the above contention the Petitioner's Counsel has also sent up a copy of the Deposition of the Complainant-

Gulshan Saini in the Ld. Trial Court as PW-9 which was recorded on 30th January, 2020. Specific attention of the Court has been drawn to certain extracts from the said Deposition to highlight that the Complainant was having some land/ property related dispute with the deceased, who used to not only maltreat her, but had also physically beaten her up after which she had lodged a Complaint against him a few days before the date of occurrence. It has further been submitted on behalf of the Petitioner that his Client has been falsely implicated because the Complainant was in an illicit relationship with Prince Saini, who happens to be a business trival of the Petitioner. Such suggestion made to the Complainant was of course denied by her in her cross-examination. But in any case at this stage, this Court is not inclined to speculate upon such factual aspects, which require not only an in-depth application of mind but also a complete revelation of all the relevant background as suggested on behalf of the Petitioner, if at all the same were to be true. Till now even the said Prince Saini in whose Poultry Farm the Victim was allegedly killed, and who, along with the Complainant, had carried him from the place of occurrence to the Civil Hospital, is yet to be examined.

6. At this stage, the fact remains that the Petitioner has been specifically named as being present with his brother Jasbir Singh and having instigated his brother to shoot at and kill the victim,

and the Complainant even in her deposition has stood by her aforesaid version in the FIR. So, this Court is not inclined to delve into the merits of any speculative suggestions raised on behalf of the Petitioner when the entire material evidence from the Prosecution Side is yet to be led.

7. No ground is therefore made out to release the Petitioner on bail at this stage.

8. Dismissed.

January 06, 2021
Dpr

(SUDIP AHLUWALIA)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No