

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

**Criminal Misc. No.M-37489 of 2020(O&M)
Date of Decision: July 13, 2021**

Gursewak Singh

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE HARINDER SINGH SIDHU

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Present: - Mr.Rajiv Malhotra, Advocate and
Mr.Tarun Sharma, Advocate for the petitioner.

Mr.M.S.Nagra, Addl. AG, Punjab and
Mr.R.S.Khaira, AAG, Punjab.

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HARINDER SINGH SIDHU, J.

This petition has been filed under Section 439 Cr.P.C for grant of regular bail in case FIR No.04 dated 12.03.2020 under Sections 302, 307, 382, 384, 392 IPC and Sections 25 and 27 of the Arms Act [Sections 411, 482, 467, 468, 471 IPC and Sections 25(6)(7)(8) 25, 27, Arms Act and Sections 15, 17, 18 and 18B of Unlawful Activities (Prevention) Act have been added later on], registered at Police Station State Special Operations Cell, SAS Nagar, District Intelligence Wing (CID).

Briefly the allegations are that on 12.03.2020 information was received from an informer that accused Gagandeep Singh @ Judge who is a gangster and wanted in a number of criminal cases was wandering in Mohali in a Hyundai- i-20 car with a fake number plate with an intention to commit some heinous crime. On receipt of that information a police party was organized for search of the accused. After identifying the car of the accused

the police party started following him. He drove his car towards Chandigarh and parked his car in Sector 36-D Chandigarh. He was spotted there. On seeing the police party he fired one round from his pistol. He was then overpowered. One .30 bore pistol Barreta Made in Italy, 02 Magazines, 39 live rounds 7.62 MM, 10 live cartridges 7.63 MM were recovered on his personal search. Rs.33.60 lakh, one steel rod, one chopper steel, one combat jungle knife, one combat knife steel, one sharp steel knife, three walky talky sets (with battery), fake driving licence, two fake number plates, one Jio dongle, ropes, gloves, face mask etc. were recovered from the stolen i-20 car.

It is stated that accused Gagandeep Singh was produced before the Court on 13.03.2020 and was remanded to police custody for seven days. During investigation he made disclosure statement that he along with his accomplices had robbed the IIFL Gold Finance Company Ltd. Ludhiana and looted 30 kg. Gold. To melt the gold ornaments they had procured a machine which was kept in a bedroom in Flat No. 635 D, Penta Homes, VIP Road, Zirakpur. Some gold ornaments and weapons used in committing the crime were also lying in the flat. He disclosed that he had sold some gold to Gurpal Singh. On his disclosure statement Jewellery Stone piece and thread nearly 1 Kg 548 gms, one gold melting machine, one temperature controller, one iron chimta, some utensils, one rifle .30 06 bore and 187 live cartridges .3006 bore, one rifle .12 bore pump action and 93 live cartridges .12 bore, two rifles .12 bore DBBL, 4 magazines .32 bore, 02 magazines .45 bore, 2 magazine .30 bore and two magazine .02 black colour butt rifle one but rifle steel, 68 pencil round, 25 rounds .45 bore, 9 rounds .42 bore, 9 round .315

bore, 24 round .32 bore revolver, 19 round .32 bore pistol, 70 empty round .3006 bore, one wireless set with battery, 03 chargers and charging lead were recovered from Flat No. 635 D, Penta Homes, VIP Road, Zirakpur Road.

In status report by way of affidavit dated 02.02.2021 of DSP Vibhor Kumar, Investigating Officer it has been stated that during questioning accused Gagandeep Singh Judge admitted that in the month of February 2020, he along with Jaipal Singh, Amritpal Singh, Pardeep Singh and Gursewak Singh (petitioner) had planned to commit robbery at IIFC Gold Loan Finance Company Ludhiana. On 17.02.2020 they reached IIFC Branch. They used a walky talky to remain in touch with each other and looted 30 kg. Gold.

It is stated that during investigation and questioning of accused Gagandeep Singh it has been established that the said accused and his associates were operating gang and were involved in anti-national activities like threatening citizens of the country committing robberies at financial institutions like, bank, cash vans and non-banking financial institutions. They had procured illegal weapons and kidnapped people for ransom. They were instructed by their bosses living abroad. Some of their companions were lodged in jails. Gagandeep Singh with his companions had conspired to attack police escort parties in order to free their companions. Accordingly offences under Sections 15,17,18,18-B of the Unlawful Activities (Prevention) Act 1967 were added.

It is stated that on the basis of the investigation and questioning of accused Gagandeep, Gurpal Singh, Gursewak Singh (petitioner), Jaipal Singh were nominated as accused in this case on 25.03.2020 and offence u/s

482 was also added. On the basis of investigation and questioning of Gagandeep it was established that accused Kapil Dev provided illegal weapons to the gang. Thereafter Kapil Dev was nominated as accused on 22.05.2020.

On 24.06.2020 petitioner and accused Gurvinder Singh were arrested from Phase VI, SAS Nagar while they were travelling in a Hyundai Xcent car. One illegal .32 bore revolver and 6 cartridges were recovered from the personal search of the petitioner and 04 live cartridges were recovered from the personal search of Gurvinder Singh.

It is stated that the petitioner Gursewak Singh is an active member of the Jaipal Gang, which is led by gangster Jaipal Singh s/o Bhupinder Singh r/o Ferozepur and infamous for committing sensational offences like murder, attempt to murder, drug trafficking, possession of illegal weapons, robbery, dacoity in broad daylight of cash van of the bank and gold and so on. At least 21 FIRs have been registered on the Jaipal gang relating to these offences and petitioner Gursewak Singh, who has been actively involved in the planning and execution of these offences, has been nominated along with the other gang members in 03 cases, detailed below:-

1. On 17.02.2020, the petitioner along with Jaipal Singh, Amritpal Singh, Pardeep Singh and Gangandeep Singh @ Judge had planned to commit a robbery at IIFL Gold Loan Finance Company, Branch Gill Road, Ludhiana. On 17.02.2020, they reached IIFL branch and they had walky-talky set in order to contact each other. Jaipal Singh remained in the car and other 04 persons entered in the branch. They all had fire arm with them. They had looted about 30 kg gold

ornaments from the branch. FIR No.51, dated 17.02.2020 under Sections 395, 392, 379-B, 342, 120-B, 212, 216, 148, 149 IPC was registered at Police Station Division No.06, Ludhiana City.

2. Another case FIR No.04 dated 12.03.2020 under Sections 307, 382, 384, 392, 411 IPC and Sections 25 and 27 of the Arms Act, Sections 15, 17, 18 and 18-B of Unlawful Activities (Prevention) Act was registered at Police Station SSOC, SAS Nagar. (the present case)
3. The third case FIR No.73 dated 02.05.2015 under Sections 307, 427, 120-B, 148, 149 IPC and Sections 25 and 27 of the Arms Act was registered at Police Station Ghall Khurd, Ferozepur where the allegations are that the petitioner along with his accomplices opened fire on Gurpreet Singh Sarpanch Village Bhamba Landa and his friends travelling in a Bolero severely injuring him with bullet wounds.

It is stated that after conducting investigation, chargeheet u/s 173(2) has been submitted against five accused including the petitioner on 09.09.2020. The sixth accused Jaipal Singh is absconding. The Government of Punjab, Department of Home Affairs & Justice has accorded prosecution sanction under Section 45 of the Unlawful Activities (Prevention) Act on 15.12.2020 and same has been submitted before the court through supplementary charge-sheet under Section 173(8) Cr.P.C. on 05.01.2021.

Ld. Counsel for the petitioner has argued that the petitioner has not been named in the FIR. He is being implicated only on the basis of the

disclosure statement of co-accused Gagandeep Singh. Moreover on the material on record the offence under Sections 15, 17, 18, 18-B of the Unlawful Activities (Prevention) Act, is not made out. The petitioner is in custody since 29.05.2020.

On the other hand, Ld. Counsel appearing for the State have opposed the grant of bail contending that the petitioner is a member of a notorious gang which is involved in many cases. Moreover the petitioner is accused of offences under Sections 15,17,18,18-B of the Unlawful Activities (Prevention) Act 1967 and he cannot be released on bail if there are reasonable grounds for believing that the allegations against him are prima facie true.

As per the prosecution on receipt of secret information, one Gagandeep Singh @ Judge who is alleged to a gangster and wanted in a number of criminal cases was apprehended by a police party. One .30 bore pistol Barreta Made in Italy, 02 Magazines, 39 live rounds 7.62 MM, 10 live cartridges 7.63 MM were recovered on his personal search. Rs. 33.60 lakh in cash, one steel rod, one chopper steel, one combat jungle knife, one combat knife steel, one sharp steel knife, three walky talky sets (with battery), fake driving licence, two fake number plates, one Jio dongle, ropes, gloves, face mask etc. were recovered from the stolen i-20 car which he was reportedly driving and later abandoned in Sector 36-D, Chandigarh. During investigation Gagandeep Singh is alleged to have disclosed that he along with his accomplices had robbed the IIFL Gold Finance Company Ltd. Ludhiana and looted 30 kg. gold. To melt the gold ornaments they had procured a machine which was kept in a bedroom in Flat No. 635 D, Penta

Homes, VIP Road, Zirakpur. Some gold ornaments and weapons used in committing the crime were also lying in the flat. On his disclosure Jewellery Stone piece and thread nearly 1 Kg 548 gms, one gold melting machine , one temperature controller, one iron chimta, some utensils, one rifle .30 06 bore and 187 live cartridges .30 06 bore, one rifle .12 bore pump action and 93 live cartridges .12 bore, two rifles .12 bore DBBL, 4 magazines .32 bore, 02 magazines .45 bore, 2 magazine .30 bore and two magazine .02 black colour butt rifle one butt rifle steel, 68 pencil rounds, 25 rounds .45 bore, 9 rounds .42 bore, 9 round .315 bore, 24 round .32 bore revolver, 19 round .32 bore pistol, 70 empty round .30 06 bore, one wireless set with battery, 03 chargers and charging lead were recovered from Flat No. 635 D, Penta Homes, VIP Road, Zirakpur Road.

In the report under Section 173 Cr.P.C. filed in Court it is stated that Gursewak Singh (petitioner) and Gurwinder Singh were arrested on 24.06.2020 in Hyundai Xcent Car No. PB 05 AD 9955 from Phase 6, Mohali. An illegal revolver .32 bore along with 6 live cartridges was recovered from him. From Gurvinder Singh 04 live cartridges were recovered.

As regards the offences under Sections 15,17,18,18-B of the Unlawful Activities (Prevention) Act 1967, from a perusal of the status report as also the report under Section 173 Cr.P.C. submitted in Court it appears that the these offences have been added only on the basis of the investigation and questioning of accused Gagandeep Singh @Judge. It has been stated that during investigation and questioning of accused Gagandeep Singh it has been established that the said accused and his associates were

operating a gang and were involved in anti-national activities like threatening citizens of the country committing robberies at financial institutions like bank, cash vans and non-banking financial institutions. They had procured illegal weapons and kidnapped people for ransom. They were instructed by their bosses living abroad. Some of their companions were lodged in jails. Gagandeep Singh with his companions had conspired to attack police escort parties in order to free their companions.

It is further the case of the prosecution that the mobile handset Samsung A-10 was recovered from Gagandeep Singh @ Judge, which was sent for technical analysis. As per analysis report, this mobile phone has 256 contacts out of which 127 contacts were international. All contacts are code worded. At Sr.no.21 of contact list, a number +61478067326 was saved in the name of “Aus Veer Ji” in a code word. From thorough investigation, it came to knowledge that this number belongs to a person named “Harman” r/o Canberra City, Australia. This number was being used as a control room by the accused. Accused were frequently using this number to make calls among themselves in India to maintain secrecy from the police and other intelligence agencies. The police has written to the Australian High Commission for record/ information regarding said Harman. The accused were being instructed from their bosses abroad. Their foreign counterparts provided them financial aid through Hawala and other modes. Their links with foreign counterparts have been established through internet dongles also. The accused were in contact with each other and far across the border with modern information technology gadgets like walky-talky sets. They have procured dangerous illegal weapons and also in touch with

the infamous secret agency ISI of Pakistan through these walky-talky sets. They use social media and mobile network application like Whatsapp, Facebook Messenger to communicate with each other, to give instructions to their associates. They have close links with anti-national elements operating from Pakistan and Western countries and get weapons from them. They were instructed by their handlers to destabilise the security and stability of our country. Some companions of the accused were arrested in Police Station SSOC Amritsar who were involved in unlawful activities. The accused had planned to attack on Police stations or Police escort parties in order to get their companions released from police custody. The accused usually lure innocent minds to join in their gang by giving them financial aid and muscle power.

It is stated that the four wireless sets recovered from accused Gagandeep Singh @ Judge were got checked from the Technical Services Lab. and as per its reports all were in working order. The headphones were also in working order. The frequency slots of three walky talkies were matching and they could be used for communication.

Though the allegations appear to be very serious but there appears to be no material to connect the petitioner with the allegations. The specific role of the petitioner in the activities allegedly attracting the offences under Unlawful Activities (Prevention) Act, 1967 is not forthcoming from the chargesheet. Beyond merely asserting that the petitioner and the other associates are involved in terrorist activities, Ld. Counsel appearing for the State has not been able to point out any material collected during investigation which would connect the petitioner with the

accusations sought to be made and to indicate that the allegations against the petitioner regarding the offences under the Unlawful Activities (Prevention) Act, are prima facie true. No specific action attracting these offences has been pointed out.

The foreign contacts are recorded in the mobile handset recovered from Gagandeep Singh @ Judge. How the petitioner is connected therewith is not forthcoming. It is also not the case of the prosecution that any of those contacts is involved in promoting anti-national activities. Information regarding Harman has only been sought from the Australian High Commission.

The petitioner is in custody since 24.06.2020. The investigation in the case is complete. Challan has been filed against five of the accused. The sixth accused Jaipal is yet to be arrested. The trial of the case may take a long time specifically in view of Covid-19 situation.

In view of the above, this petition is allowed. The petitioner is directed to be released on bail on his furnishing bail/surety bonds to the satisfaction of the Trial Court/Duty Magistrate concerned.

It is made clear that the observations made herein are only for the purpose of decision of the present petition for bail. The Trial Court shall not be influenced by these observations.

July 13, 2021
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(HARINDER SINGH SIDHU)
JUDGE

Whether Speaking / Reasoned	Yes
Whether Reportable	Yes / No