IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Date of Decision: 12.11.2021

(I) **CRM-M-42920-2021 (O&M)**

Jaswinder Singh @ Kalu … Petitioner

Versus

State of Punjab ... Respondent

(II) **CRM-M-43020-2021 (O&M)**

Chanpreet Singh @ Channi … Petitioner

Versus

State of Punjab ... Respondent

(III) **CRM-M-43311-2021 (O&M)**

Devinder Singh @ Bunty … Petitioner

Versus

State of Punjab ... Respondent

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present: Mr. Yashpal Thakur, Advocate,
for the petitioner/s.

Mr. Ajay Pal Singh Gill, DAG, Punjab,
assisted by ASI Jasvir Singh.

Mr. Manoj Tanwar, Advocate,
for the complainant.

GURVINDER SINGH GILL, J . (Oral)

1. This order shall dispose of the above mentioned three petitions wherein petitioners, namely, Jaswinder Singh @ Kalu, Chanpreet Singh @ Channi and Devinder Singh @ Bunty, seek grant of regular bail in a case registered against them vide FIR No.111,

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dated 03.11.2017 at Police Station Bassi Pathana, District Fatehgarh Sahib, under Sections 302/341/148/149/120B IPC (Section 201 IPC added later on).

2. The FIR in question was lodged at the instance of Gurdev Singh (father of deceased), wherein it is alleged that on 22.10.2017 at about 12 noon his son Jaspreet Singh (deceased) along with Jagroop Singh went on motorcycle bearing registration No.PB-65-AF-6205 belonging to Karigar Bhura Singh to Bassi Pathana. While they were returning back, they were waylaid by 7-8 unknown persons who had come on 3 motorcycles and who surrounded the complainant's son and others accompanying him. The unknown persons are alleged to be armed with 'swords' and 'iron rods'. While the motorcycle was being driven by complainant's son Jaspreet Singh, Jagroop Singh and Karigar Bhura Singh were sitting on the pillion seat. Jagroop Singh, however, managed to run away from the spot. The unknown persons gave blows with 'swords' and 'iron rods' to Jaspreet Singh and also to Karigar Bhura Singh. Jagroop Singh, who had run away from the spot, informed the complainant telephonically. Thereafter, the complainant arranged for a vehicle and rushed Jaspreet Singh and Karigar Bhura Singh to Bawa Nursing Home Bassi Pathana for medical treatment from where Jaspreet Singh was referred to PGI Chandigarh and where he remained admitted till 2.11.2017 and ultimately expired.

3. Learned counsel for the petitioners has submitted that none of them is named in the FIR and in fact the identity of the assailants was

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never disclosed and it is only on 18.07.2019 that the prosecution claims that Jaswinder Singh made an extra judicial confession before Balwinder Singh, naming all the accused including the petitioners as the assailants and that it is further the case of prosecution that another extra judicial confession was made by all the accused together before aforesaid Balwinder Singh on the very next day i.e. on 19.07.2019. Learned counsel has also referred to the cross-examination of PW-3 Jagroop Singh wherein he has categorically admitted that he did not know any of the accused except Jaswinder Singh prior to 19.07.2019. Learned counsel has submitted that the case of prosecution is based mainly on the alleged extra judicial confession which is a weak type of evidence and cannot be acted upon unless there is strong corroborative evidence. Learned counsel for the petitioners has further submitted that the petitioners in any case deserve the concession of bail on the grounds of parity inasmuch as co-accused Arvinder Singh, Gurwinder Singh, Harshdeep Singh, Tejinder Singh @ Teji and Gursweak Singh @ Lala have already been ordered to be released on bail by this Court.

4. Opposing the petitions, learned State counsel assisted by learned counsel for the complainant has submitted that Jagroop Singh while in the witness box has clearly identified the accused and that in these circumstances, no case for grant of bail is made out. Learned State counsel has informed that the petitioners as on date have been behind bars since the last about 2 years & 3 ½ months and that as on date 6 out of the cited 34 PWs have been examined.

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It has also been informed that while Jaswinder Singh and Chanpreet Singh are not involved in any other case, Devinder Singh @ Bunty stands involved in one case under Section 323 IPC.

5. I have considered rival submissions addressed before this Court.

6. It is not in dispute that none of the assailants was identified by Jagroop Singh or the other injured Karigar Bhura Singh at the spot and it is only after 2 years of the occurrence that the police claims that the accused suffered extra judicial confessions and on the basis of which the petitioners have been nominated. It will be debatable as to whether such like extra judicial confession can be said to be sufficient to hold the accused guilty or not or to establish their complicity. In any case, the petitioners as on date have been behind bars for a substantial period of more than 2 years and conclusion of trial is likely to take time as only 6 out of the cited 34 PWs have been examined till date. The petitions, as such, are accepted and the petitioners are ordered to be released on bail subject to their furnishing bail bonds to the satisfaction of learned trial Court/Chief Judicial Magistrate/Duty Magistrate concerned.

7. A photocopy of this order be placed on the file of each connected case.

12.11.2021 **(GURVINDER SINGH GILL)**
Vimal **JUDGE**

Whether speaking/reasoned: **Yes/No**
Whether reportable: **Yes/No**

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