

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

CRM-M-2068-2022 (O&M)
Date of Decision:- 21.9.2022

Bir Singh ...Petitioner

Versus

State of Haryana ...Respondent

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present: Mr. A.P.S. Deol, Senior Advocate with
Mr. Himmat Singh Deol, Advocate for the petitioner.

Mr. Rajiv Sidhu, DAG, Haryana.

Mr. Jaivir Yadav, Senior Advocate with
Mr. Harshvardhan Ranga, Advocate for the complainant.

GURVINDER SINGH GILL, J.

1. The petitioner seeks grant of regular bail in a case registered against him vide FIR No. 122 dated 29.5.2021 under Sections 302, 307, 216, 323/34 IPC and under Section 25 of the Arms Act, 1959 at Police Station Kasola, District Rewari.
2. The FIR was lodged at the instance of Subhash wherein it is alleged that on 29.5.2021 at about 2-2:30 p.m., he alongwith his sons Vijay and Brahm Parkash and also his nephew Bhim Singh were present at their house. Around that time, they heard his brother Duli Chand saying that his sons Bir Singh and Bhupinder @ Mogli and their wives Sonu and Kavita respectively are beating him and also his wife. Upon hearing the said alarm, the complainant and his nephew Bhim Singh went to the house of his brother

Duli Chand where they saw Bhupinder and his wife Kavita and Sonu wife of Bir Singh were quarreling with complainant's brother Duli Chand and complainant's sister-in-law. When the complainant tried to reason out, Bir Singh started giving beatings to complainant's nephew Bhim Singh. It is alleged that Kavita gave a fist blow on complainant's face. On account of said commotion, complainant's sons namely Vijay and Brahmparkash also came there so as to rescue them. When they tried to intervene, Kavita stated that they (complainant's side) will not understand and that they be filled with 'brass'. It is alleged that Kavita brought two pistols from inside and that she handed one of the said pistols to Bhupinder, she kept the other one with herself. Bir Singh already had a weapon. Kavita and Sonu caught hold of Vijay by his arms while Bhupinder fired a shot at him. Bir Singh is also stated to have fired at Vijay. Thereafter, Bir Singh and Bhupinder resorted to indiscriminate firing upon the complainant, Brahmparkash and Bhim Singh. While the complainant and his nephew Bhim Singh escaped unhurt, Brahmparkash sustained a bullet injury. The complainant and his nephew Bhim Singh shifted Brahmparkash and Vijay to hospital at Rewari where Vijay was declared dead while Brahmparkash was undergoing treatment. It is, thus, alleged that Bhupinder, his wife Kavita, Bir Singh, his wife Sonu had fired at his sons Vijay and Brahmparkash with unlicensed weapons, on account of which Vijay had died.

3. The learned senior counsel representing the petitioner has submitted that the petitioner- Bir Singh has falsely been implicated in the present case and that the falsity would be evident from the fact that Brahmparkash-injured son of the complainant has himself stated that it is co-accused Bhupinder who had

brought a country-made pistol from his bed and had fired at deceased as well as at him. The learned counsel has further submitted that said version is also corroborated by the statement of Constable Parveen, recorded under Section 161 Cr.P.C. and also of Duli Chand (father of Bir Singh). The learned counsel has submitted that since two other co-accused have already been granted bail by this Court vide order dated 16.12.2021 (Annexure P-2), the petitioner also deserves the same concession on grounds of parity.

4. Opposing the petition, the learned State counsel assisted by counsel for the complainant has submitted that since the petitioner is specifically named in the FIR and is alleged to have fired at the deceased Vijay and injured Brahmparkash, no case for grant of bail is made out. The learned State counsel has, however, informed that the petitioner has been behind bars since the last about 1 year and 4 months and that he is not involved in any other case.
5. This Court has considered rival submissions addressed before this Court.
6. It is apposite to refer to the statement (Annexure P-4) of the injured-witness Brahmparkash recorded in terms of Section 161 Cr.P.C., the relevant extract of which reads as follows :-

“On 29-5-2021, I was present at my house and on hearing the noise of quarrel from the house of my uncle (Tau) I went there. There my uncle’s son Bir Singh, Mogli, Sonu and Kavita were quarreling with my uncle (Tau) Dulichand, my aunt Bimla and their son Bhim Singh. My father Subhash was trying to interfere. On hearing the noise of quarrel, my brother Vijay also reached the spot, thereafter, we both the brothers tried to interfere, Bhupender @ Mogli my Tau’s son brought one country made ‘katta’ and pistol from his bed and as soon as

Bhupender @ Mogli came out, he fired shot at my brother Vijay and me and ran away from the spot.”

7. Another eye-witness i.e. Constable Parveen Kumar, who had been deputed as a body guard with co-accused Bir Singh has narrated the occurrence (Annexure P-5), as follows :-

“When they started interfering, Bhupender @ Mogli brought one country made ‘katta’ and one country made pistol from his bed and as soon as he (Bhupender @ Mogli) came out, he fired shot at Vijay and Brahmparkash and fled away from the spot.”

8. Duli Chand (father of co-accused Bir Singh and Bhupinder @ Mogli), in his statement (Annexure P-6) recorded in terms of Section 161 Cr.P.C., stated to the following effect :-

“On this my son Bhupender @ Mogli brought one country made ‘katta’ and pistol from his bed and as soon as Bhupender @ Mogli came out, he fired shot at Vijay and Brahmparkash and ran away from the spot.”

9. A perusal of the aforesaid statements would show that the aforesaid witnesses including the injured-witness Barhmparkash, who is son of the complainant and brother of the deceased has categorically stated that it is the co-accused Bhupinder @ Mogli who had brought a country-made pistol from his bed and had fired at the deceased and at the injured which to some extent belies the version unfolded in the FIR wherein the petitioner is also stated to have fired. In any case, the petitioner has been behind bars for a substantial period of about 1 year and 4 months and is not stated to be involved in any other case. In these circumstances, further detention of the petitioner will not serve any useful purpose.

10. The petition, as such, is accepted and the petitioner is ordered to be released on regular bail on his furnishing bail bonds/surety bonds to the satisfaction of learned trial Court/Chief Judicial Magistrate/Duty Magistrate concerned.

21.9.2022

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(Gurvinder Singh Gill)
Judge

Whether speaking /reasoned
Whether Reportable

Yes / No
Yes / No