

**In the High Court for the States of Punjab and Haryana
At Chandigarh**

CRM-M-4229-2022 (O&M)
Date of Decision:-14.11.2022

Jaspal Singh ... Petitioner

Versus

State of Punjab ... Respondent

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present:- Mr. Bipan Ghai, Senior Advocate with
Mr. Nikhil Ghai, Advocate and
Mr. Prabhdeep Singh Bindra, Advocate for the petitioner.

Mr. Siddharth Attri, AAG, Punjab,
assisted by ASI Balwant Singh.

Mr. Sant Pal Singh Sidhu, Advocate,
for the complainant.

GURVINDER SINGH GILL, J. (Oral)

1. The petitioner has approached this Court seeking grant of regular bail in respect of a case registered vide FIR No.60, dated 9.9.2019, Police Station Arif Ke, District Ferozepur, under Sections 302, 307, 201, 336, 148, 149 of Indian Penal Code and Sections 25/27/54/59 of Arms Act.
2. The FIR was lodged at the instance of Nishan Singh, wherein it is alleged that on 8.9.2019 when he alongwith his son Nirvail Singh and Gurjant Singh were returning back home in their car, they were way-laid near the house of Jaspal Singh by Jaspal Singh (petitioner), who was armed with .315 bore

rifle, Ranjit Singh armed pistol, Tajinder Singh armed with stick, Lovepreet Singh armed with .12 bore gun, Thaman Singh armed with stick, Onkar Singh armed with .315 bore rifle, Jagmeet Singh armed with sword and Jaswinder Singh armed with a stick. Tajinder Singh raised a '*lalkara*' exhorting his companions to catch hold of the complainant and his son and to teach them a lesson for taking possession of Panchayat land. The said persons were also accompanied by some unidentified boys. When the complainant asked them as to why they are troubling them, then Jaspal Singh fired from his rifle towards the complainant hitting him in his abdomen and bicep of left arm. Thereafter, Ranjit Singh fired in the air with his pistol. Onkar Singh also fired in the air with his .315 bore rifle. During this time Jaswinder Singh and Jagmeet Singh continued raising '*lalkaras*'. The complainant became unconscious on account of the injuries sustained by him and when he gained consciousness he found himself in a private hospital at Ferozepur but on account his precarious condition was shifted to DMC, Ludhiana, where his arm was amputated. However, the complainant Nishan Singh could not survive and succumbed to his injuries on 10.9.2019.

3. The matter was investigated by the police. A cross-version at the instance of Jaspal Singh of the opposite party was also recorded. The police upon conclusion of investigation presented challan on 19.12.2019, wherein it was recorded that it was Jaspal Singh, who had fired at the deceased Nishan Singh. However, subsequently a Special Investigation Team (SIT) was constituted and which submitted its report on 4.10.2021 to the effect that infact the fatal firearm shot had been fired by Gurjant Singh and consequently report under Section 173(8) was presented accordingly, wherein the petitioner Jaspal Singh has been declared as innocent.

4. Learned counsel for the petitioner submits that it is a case of cross-version, wherein the petitioner has been falsely implicated and that the truth has come out upon the matter having been investigated by SIT, wherein the petitioner has been found innocent and the fatal shot is attributed to Gurjant Singh, who otherwise happens to be son of Nishan Singh (deceased) himself.
5. Opposing the petition, learned State counsel assisted by learned counsel for the complainant has submitted that it is a case based virtually on dying declaration of deceased Nishan Singh, wherein he has categorically named the petitioner to be one, who had fired at him. It has been submitted that the findings as recorded in the report under Section 173(8) Cr.P.C. in favour of the petitioner are yet to be tested during the course of trial and, as such, the petitioner cannot claim any benefit on the same at this stage. Learned State counsel has, however, informed that the petitioner as on date has been behind bars since the last about 3 years and 2 months and is not involved in any other case.
6. This Court has considered the rival submissions.
7. It is a case where the FIR specifically nominates the petitioner to be the one who had fired at the deceased and upon investigation challan had been presented against the petitioner Jaspal Singh. However, subsequently upon the matter having been investigated by SIT, the petitioner has been given a clean-chit.
8. Having regard to the aforesaid contradictory findings recorded by the investigating agencies and the fact that the petitioner has been behind bars for a substantial period of about 3 years and 2 months and conclusion of trial is likely to consume time inasmuch the PWs are yet to be examined, this

Court is of the opinion that further detention of the petitioner will not serve any useful purpose. 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.

9. It is, however, made clear that none of the observations made above shall be construed to be an expression on merits of the main case particularly as regards the findings recorded in supplementary challan and it shall be for the Trial Court to assess the veracity of the same on the basis of the evidence as may be recorded.

14.11.2022

pankaj

**(Gurvinder Singh Gill)
Judge**

Whether speaking /reasoned

Yes / No

Whether Reportable

Yes / No